

**PORT ARTHUR HISTORIC SITE MANAGEMENT AUTHORITY
ACT 1987**

No. 61 of 1987

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**PORT ARTHUR HISTORIC SITE MANAGEMENT
AUTHORITY ACT 1987**

No. 61 of 1987

AN ACT to provide for the establishment of an authority for the management of the Port Arthur historic site and land appurtenant thereto, to prescribe the functions and powers of the Authority, and to provide for related matters.

[Royal Assent 18 August 1987]

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:—

PART I

PRELIMINARY

1—This Act may be cited as the *Port Arthur Historic Site Management Authority Act 1987*. Short title.

2—(1) This section and section 1 shall commence on the day on which this Act receives the Royal assent. Commencement.

(2) Except as provided in subsection (1), this Act shall commence on a day to be fixed by proclamation.

Interpretation.

3—(1) In this Act, unless the contrary intention appears—
“adjacent area” means—

(a) the parcel of Crown land at Garden Point, near Port Arthur, delineated and enclosed by a thick black line on Plan No. L.D. 940, a reduced copy of which is set out in Part III of Schedule 1; and

(b) the parcel of land at Port Arthur more particularly described in Certificate of Title Volume 3670 Folio 68 and delineated and enclosed by a thick black line on Plan No. L.D. 947, a reduced copy of which is set out in Part IV of Schedule 1,

together with any land that, by virtue of subsection (2) of section 12, is to be taken to form part of the adjacent area but excluding any land that, by virtue of that subsection, is to be taken to have been excised from it;

“the Authority” means the Port Arthur Historic Site Management Authority constituted under section 4;

“commencing day” means the day fixed by proclamation under section 2 (2);

“employee” means the manager, or another employee, appointed by the Authority under section 9 (1);

“financial year” means a period of 12 months ending on 30th June in any year;

“functions” includes duties;

“historic site” means the several parcels of Crown land at Port Arthur comprising—

(a) the 3 parcels each delineated and enclosed by a thick black line on Plan No. L.D. 943, a reduced copy of which is set out in Part I of Schedule 1; and

(b) the 2 parcels delineated and shown diagonally hatched on Plan No. L.D. 942, a reduced copy of which is set out in Part II of Schedule 1,

together with any land that, by virtue of subsection (2) of section 12, is to be taken to form part of the historic site but excluding any land that, by virtue of that subsection, is to be taken to have been excised from it;

“Management Plan” means the management plan in force on the day immediately preceding the commencing day under section 19 of the *National Parks and Wildlife Act 1970* in respect of the pre-existing reserve and, subject to this Act, that management plan as modified from time to time and any management plan from time to time adopted in substitution for that management plan;

“municipality” means the corporation or the municipal district, as the case requires, of the municipality of Tasman;

“pre-existing reserve” means the Crown land comprising the State reserves that, on the day immediately preceding the commencing day, were collectively known, by virtue of a proclamation made under section 15A (b) of the *National Parks and Wildlife Act 1970*, as the Port Arthur Historic Site;

“subject land” means the land comprising—

(a) the historic site; and

(b) the adjacent area.

(2) A reference in subsection (1) to a plan by number is a reference to the plan so numbered that is filed and registered in the Central Plan Office of the Department of Lands, Parks and Wildlife at Hobart.

PART II

PORT ARTHUR HISTORIC SITE MANAGEMENT AUTHORITY

4—(1) There is constituted by this Act a body corporate with the corporate name of the Port Arthur Historic Site Management Authority. Constitution of Authority.

(2) The Authority—

(a) has perpetual succession;

(b) shall have a common seal;

(c) may take proceedings, and be proceeded against, in its corporate name;

(d) may do and be subject to all other things that corporations may by law do and be subject to and that are necessary for, or incidental to, the purpose for which it was constituted; and

(e) has the functions imposed, and the powers conferred, on it by, or under, this or any other Act.

(3) All courts, judges, and persons acting judicially shall take judicial notice of the common seal of the Authority affixed to a document and, unless the contrary is established, shall presume that it was duly affixed.

Membership, and
chairmanship, of
Authority.

5—(1) The Authority shall consist of 6 members, of whom—

(a) one shall be the person for the time being holding, or acting in, the office of Secretary for Lands, Parks and Wildlife;

(b) one shall be the person for the time being holding, or acting in, the office of Director of Tourism; and

(c) 4 shall be members appointed by the Governor, of whom one, at least, shall be a person who—

(i) resides within the municipality; or

(ii) has special knowledge of the historic site.

(2) The Governor shall appoint one of the members of the Authority to be chairman of the Authority.

(3) Schedule 2 has effect with respect to the membership of the Authority.

(4) Schedule 3 has effect with respect to the meetings of the Authority.

Effect to be
given to
Management
Plan.

6—(1) In the performance of its functions and the exercise of its powers the Authority shall—

(a) give effect, as far as practicable, to the Management Plan; and

(b) comply with—

(i) directions in writing given by the Minister for the purpose of ensuring that effect is given to the Management Plan; and

(ii) other directions in writing, not inconsistent with this Act or the Management Plan, given by the Minister.

(2) Before giving a direction under subsection (1) (b), the Minister shall consult the Authority with respect to the matters proposed to be included in the direction.

7—(1) The functions of the Authority are, on behalf of the Crown, to occupy, and provide for the care, control, management, maintenance, and improvement of, the subject land. Functions of Authority.

(2) In the performance of its functions and the exercise of its powers, the Authority shall—

- (a)* ensure the preservation and maintenance of the historic site as an example of a major British convict settlement and penal institution of the 19th century;
- (b)* co-ordinate archaeological activities on the historic site;
- (c)* promote an understanding of the historical and archaeological importance of the historic site;
- (d)* consistently with the Management Plan, promote the historic site as a tourist destination;
- (e)* provide adequate facilities for visitor use;
- (f)* use its best endeavours to secure financial assistance, by way of grants, sponsorship, and other means, for the carrying out of its functions; and
- (g)* conduct its affairs with a view to becoming a viable commercial enterprise as soon as practicable.

8—(1) Without limiting the generality of section 4 (2) *(d)* but subject to subsection (3), the Authority may— Powers of Authority.

- (a)* permit the use of any part of the subject land (including the interior of any of its buildings) for—
 - (i)* the taking of photographs, the making of films and sound recordings, and the production of radio or television programme material; or
 - (ii)* the conduct of religious, educational, social, or cultural functions, of events connected with State occasions, or of charitable or other promotional activities;
- (b)* obtain, by way of purchase, hire, gift, or loan, from sources within and outside Tasmania, materials (including, in particular, relics, documents, and artefacts) relating to Port Arthur and its historical context;
- (c)* exhibit and make available materials of the kind referred to in paragraph *(b)* for display by other persons and for use by other persons in the making of films, video materials, photographs, and other educational or promotional materials;

- (d) dispose of materials of the kind referred to in paragraphs (b) and (c), by way of sale, hire, gift, loan, or exchange;
- (e) consistently with the Management Plan, erect, modify, repair, remove, or demolish buildings and structures on the subject land;
- (f) construct, maintain, and eliminate roads and paths on the subject land;
- (g) provide and maintain water supply, sewerage, drainage, and other services on the subject land and in its vicinity;
- (h) provide accomodation, food and other refreshments, and other facilities and conveniences for the use and benefit of—
 - (i) persons resorting to the subject land; and
 - (ii) employees of the Authority,and authorize the provision of those services by other persons;
- (i) notwithstanding the *National Parks and Wildlife Act 1970* but subject to subsection (2)—
 - (i) grant leases and licences to occupy any part of the subject land or of any building erected on the subject land; and
 - (ii) accept leases and licences to occupy land and buildings;
- (j) sell or let on hire to, or otherwise provide for the use of, persons resorting to the historic site equipment and other goods;
- (k) enter into arrangements with the municipality in relation to the control of land use and building activities on the subject land and in its vicinity;
- (l) levy and collect fees and charges in relation to any of the foregoing matters, including, in particular, charges for admission to the historic site and any of its buildings and for the provision of services;
- (m) impose such terms and conditions as it thinks fit in relation to the exercise by it of any of the foregoing powers;
- (n) enter into any contract, agreement, or arrangement with any person or body, whether corporate or unincorporate, for the purpose of the performance of its functions or the exercise of its powers;

(o) appoint and engage as an independent contractor, on such terms and conditions as may be arranged, any person or group of persons—

(i) to perform such of its functions and exercise such of its powers as the Authority may require; and

(ii) to provide such services as the Authority may require in connection with the performance of its functions and the exercise of its powers; and

(p) do all things incidental to the exercise of the foregoing powers.

(2) Subject to subsection (3), in the exercise of the power conferred by subsection (1) (i), the Authority shall, on behalf of the Crown, exercise the authorities conferred by the *Crown Lands Act 1976* on the Minister.

(3) The Authority shall not, except with the consent of the Minister, grant a lease or licence, or enter into any other contract under subsection (1), for a period of more than 5 years.

9—(1) The Authority shall appoint a manager and may appoint such other employees as may be necessary for the performance of its functions or the exercise of its powers under this Act. Manager and other employees.

(2) Employment under this section may be—

(a) in a permanent, or a temporary, capacity; and

(b) on a full-time, or a part-time, basis.

(3) Schedule 4 has effect with respect to the appointment, and the terms and conditions of employment, of employees appointed under this section.

10—(1) The Authority may, by resolution, establish committees for the purpose of assisting it in the exercise of its functions under this Act. Committees.

(2) A committee established under subsection (1) shall be constituted by such persons as the Authority considers appropriate and may include, in addition to or in place of members of the Authority, employees of the Authority and other persons.

(3) Subject to subsection (4), a member of a committee established under this section is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Authority may from time to time determine, and the payment of any such remuneration shall be made out of the funds of the Authority.

(4) A member of a committee who is—

(a) a Head of Agency, or an employee, within the meaning of the *Tasmanian State Service Act 1984*; or

(b) otherwise holding, or acting in, an office—

(i) under that Act; or

(ii) in an Agency within the meaning of that Act,

is not entitled to remuneration under subsection (3), except with the approval of the Minister administering that Act.

Delegation by
Authority.

11—(1) The Authority may, by instrument in writing under its common seal, delegate to an employee specified in the instrument the performance or exercise of such of its functions and powers under this Act or any other Act (other than this power of delegation) as are specified in the instrument, and may, by instrument in writing under its common seal, revoke wholly or in part any such delegation.

(2) A function or power the performance or exercise of which has been delegated under this section may, while the delegation remains unrevoked, be performed or exercised from time to time in accordance with the terms of the delegation.

(3) A delegation under this section may be made subject to such conditions or limitations as to the performance or exercise of any of the functions or powers delegated, or as to time or circumstance, as are specified in the instrument.

(4) Notwithstanding any delegation under this section, the Authority may continue to perform or exercise all or any of the functions or powers delegated.

(5) Any act or thing done by, or to, a delegate of the Authority while acting in the exercise of a delegation under this section shall have the same force and effect as if the act or thing had been done by, or to, the Authority and shall be deemed to have been done by, or to, the Authority.

(6) An instrument purporting to be signed by a delegate of the Authority in his capacity as such a delegate shall in all courts and before all persons acting judicially be received in evidence as if it were an instrument executed by the Authority under seal and, until the contrary is proved, shall be deemed to be an instrument signed by a delegate of the Authority under this section.

(7) Where the exercise of a power by the Authority is dependent on the opinion or belief of the Authority, a delegate of the Authority under this section may, in exercising that power, act on his own opinion or belief.

PART III

ADMINISTRATION OF THE HISTORIC SITE AND ADJACENT AREA

12—(1) Subject to this section and clause 5 of Schedule 5, nothing in this Act shall be taken to affect—

Co-ordination of
administration
with requirements
of *National
Parks and
Wildlife Act
1970*.

(a) the status under Part III of the *National Parks and Wildlife Act 1970* of any part of the subject land;
or

(b) the powers conferred on the Minister and on the Director of National Parks by that Act and the *Aboriginal Relics Act 1975* with respect to matters relating to fauna, flora, and aboriginal sites and relics.

(2) Subject to subsection (3), the Governor may—

(a) in a proclamation made under section 15 (1) of the *National Parks and Wildlife Act 1970* declaring land to be a State reserve, declare the whole or part of that land to form part of the historic site or of the adjacent area;

(b) by proclamation under section 16 of that Act, cause any part of the historic site or of the adjacent area to cease to be, or form part of, a State reserve;
and

(c) by proclamation under this subsection—

- (i) declare the whole or part of an existing State reserve to form part of the historic site or of the adjacent area; or
- (ii) declare any part of the historic site or of the adjacent area to be State reserve outside the control of the Authority,

and the land to which any such proclamation relates shall, by force of this subsection, be taken, for the purposes of this Act, to form part of, or to be excised from, the historic site or the adjacent area, as the case requires.

(3) The Governor shall not make a proclamation under Part III of the *National Parks and Wildlife Act 1970* altering or otherwise affecting the status of any part of the subject land unless the Minister has first obtained from the Authority, and communicated to him, the views of the Authority in relation to the changes proposed to be affected by the proclamation.

(4) Sections 19, 20, 21, 21A, 22 (1), 24, 25, 25A, and 26A of the *National Parks and Wildlife Act 1970* and the Management Plan apply in relation to the subject land as if references in them to the Director of the National Parks and Wildlife Service were references to the Authority.

Consultation by
municipality with
Authority.

13—The municipality shall consult, and take into account the views of, the Authority in relation to any application lodged with the municipality in relation to any proposed building works or development on, or subdivision of, any land within the municipality that does not form part of the subject land, being building works or development, or subdivision, that may affect the amenity of the subject land.

Adoption of
emblem for use
by Authority.

14—(1) The Authority may, by by-law under section 34, determine an emblem to be adopted for use by the Authority.

- (2) A person who, without the permission of the Authority—
 - (a) has in his possession or under his charge or control any article bearing; or
 - (b) uses for the purposes of any business or other activity carried on by him or in which he is engaged,

the emblem referred to in subsection (1), is guilty of an offence and is liable on summary conviction to a fine not exceeding 1 penalty unit.

15—(1) A person who, otherwise than in accordance with permission granted by the Authority—

Commercial activities otherwise than in accordance with approval of Authority.

(a) sells or hires, or offers for sale or hire, goods of any description; or

(b) provides or offers to provide, for reward, accommodation or other services,

on the subject land is guilty of an offence and is liable on summary conviction to a fine not exceeding 10 penalty units.

(2) A person who is convicted under subsection (1) in respect of a continuing offence—

(a) is liable, in addition to the penalty otherwise applicable to that offence, to a fine for each day during which the offence continued of not more than 0.5 penalty units; and

(b) if the conduct constituting the offence continues after the person is convicted, is guilty of a further offence against subsection (1) and is liable on summary conviction for that further offence, in addition to the penalty otherwise applicable to that further offence, to a fine for each day during which the offence continued after that conviction of not more than 0.5 penalty units.

16—A person who, without the approval of the Authority—

Damage to, and removal of, property, &c.

(a) removes any flora or timber from the subject land;

(b) damages any relic, artefact, building or other structure, flora, or timber on the subject land; or

(c) removes from the subject land—

(i) any relic, document, or artefact;

(ii) any portion of a building or structure erected on the subject land; or

(iii) any building material,

is guilty of an offence and is liable on summary conviction to a fine not exceeding 5 penalty units.

17—(1) The Authority may display signs or notices on the subject land designating the places in which the lighting of fires is permitted and giving directions as to the precautions to be observed in connection with the lighting of fires in those places.

Lighting of fires.

(2) A person who—

(a) in lighting a fire in a place referred to in subsection (1), contravenes or fails to comply with a prohibition or restriction, or other direction, contained in a sign or notice displayed in pursuance of that subsection; or

(b) lights a fire in a place on the subject land other than a place referred to in subsection (1) except with the written permission, and in accordance with the directions, of the Authority,

is guilty of an offence and is liable on summary conviction to a fine not exceeding 20 penalty units.

Other offences.

18—A person who—

(a) otherwise than on payment of the appropriate charge or with the approval of the Authority enters the historic site;

(b) brings onto the historic site any metal-detecting device; or

(c) brings onto the subject land any firearm, crossbow, or other weapon,

is guilty of an offence and is liable on summary conviction to a fine not exceeding 5 penalty units.

Power to require offenders to disclose identity and leave subject land.

19—(1) Where an employee has reasonable grounds for believing that a person has committed, or is committing, an offence against this Act, he may—

(a) require that person to state his name and the address of his place of abode; and

(b) require that person to leave, and to remove his possessions from, the subject land.

(2) A person who—

(a) when required under this section to state his name and the address of his place of abode, fails or refuses to give his full name and that address or gives a name and address that is false; or

(b) when required under this section to leave, and remove his possessions from, the subject land, fails to do so, or does not do so with reasonable expedition,

is guilty of an offence and is liable on summary conviction to a fine not exceeding 2 penalty units.

20—(1) Where an employee has reasonable grounds for believing that an offence has been committed under this Act with respect to the removal from, or the bringing onto, the subject land of any article, he may seize that article and, subject to the directions of the Authority, retain it until the determination of any proceedings that may be instituted in respect of an offence against this Act against the person from whom the article was seized. Powers of seizure.

(2) Where an article, not being the property of the Crown or of the Authority, has been seized from any person under this section and no proceedings have been instituted against that person for an offence on conviction for which it may be forfeited to the Crown, a court of petty sessions, on the application of that person, may direct it to be returned to him, and, on the making of that direction, the authority under subsection (1) to retain it ceases.

(3) A person who, when required under subsection (1) to do so by an employee, refuses to deliver to that employee an article that the employee is entitled to seize under this section is guilty of an offence and is liable on summary conviction to a fine not exceeding 2 penalty units.

21—In any proceedings for an offence under this Act, any place specified in the complaint as being within the subject land, or within the historic site or the adjacent area, shall be deemed, in the absence of proof to the contrary, to be within the subject land, or within the historic site or adjacent area, as the case requires. Evidence as to extent of subject land.

PART IV

FINANCES OF THE AUTHORITY

22—(1) The Authority shall, with the approval of the Treasurer, establish such bank accounts as it considers necessary. Funds of Authority.

(2) The funds of the Authority shall be paid to the credit of such of the accounts referred to in subsection (1) as it determines and shall consist of—

(a) any money appropriated by Parliament for the purposes of the Authority;

- (b) money received by way of fees and charges imposed by the Authority under this Act;
 - (c) all money derived by the Authority from—
 - (i) the leasing of any part of the subject land or of other land under the control of the Authority; or
 - (ii) the sale or other disposal by the Authority of any property that the Authority has power to sell or dispose of;
 - (d) all money borrowed by the Authority under this Act; and
 - (e) all other money received from any other source by the Authority.
- (3) The funds of the Authority shall be applied only—
- (a) in payment or discharge of the expenses, charges, and obligations incurred or undertaken by the Authority in the performance of its functions or the exercise of its powers; or
 - (b) in the payment of any remuneration payable under this Act.

Temporary investment of funds.

23—The Authority may invest any money that it is holding and for which it has no immediate use in any manner in which trustees are authorized to invest trust funds under the *Trustee Act 1898*.

Accounts.

24—The Authority shall cause to be kept proper accounts and records in relation to all of its operations and shall, on or before 31st August in each year, prepare a statement of accounts in a form approved by the Auditor-General, exhibiting a true and correct view of the financial position and the transactions of the Authority with respect to the preceding financial year.

Audit.

25—(1) The accounts of the Authority are subject to the *Audit Act 1918*.

(2) The Authority shall pay to the Consolidated Fund towards defraying the costs and expenses of any audit under this section such amounts, and at such times, as the Treasurer may require.

Borrowing by Authority.

26—(1) The Authority may, subject to subsection (2), borrow by overdraft on its bank accounts for the purpose of performing any of its functions or exercising any of its powers under this Act.

(2) The Authority shall not borrow by overdraft an amount in excess of \$50 000 (or such other amount as is from time to time determined by the Governor, by order, for the purposes of this subsection) except with the approval of the Treasurer.

(3) The Treasurer may grant a loan to the Authority for the purpose of—

(a) meeting working expenses; or

(b) paying off any overdraft, either wholly or in part, and the loan shall be on such terms as to repayment, payment of interest, and otherwise, as the Treasurer may determine.

(4) For the purposes of this Act, the Authority may, with the approval of the Treasurer and subject to such terms and conditions as the Treasurer may determine, borrow moneys from such sources other than those referred to in subsections (1) and (3) as the Treasurer may approve.

(5) The Authority shall make such provisions as the Treasurer may require for the establishment of a sinking fund for the purpose of repaying moneys borrowed by the Authority under subsection (4).

27—(1) The Authority shall make such annual provision as the Treasurer may approve for the depreciation of its assets, and the amount so set aside shall be credited to a special account to be known as the “depreciation account”. Depreciation account.

(2) The money provided pursuant to subsection (1) may be applied by the Authority for—

(a) meeting repayments required in respect of money advanced or lent to the Authority;

(b) financing the purchase of new assets or the replacement of, or otherwise making good the depreciation of, its assets; and

(c) making investments in such manner as the Treasurer may approve.

28—(1) Subject to subsection (2), the Authority may, out of the money received by it under this Act, set aside such amount as it considers necessary for the purpose of— Reserve accounts.

(a) making provision for undetermined losses or liabilities; or

(b) creating a reserve, or reserves, against contingencies, or for such other purpose as may be determined by the Authority.

(2) The Authority shall not exercise the power conferred on it by subsection (1) unless the Treasurer has approved of the amount of each provision or reserve, and the purpose for which each provision or reserve is made.

Guarantees.

29—(1) The Treasurer may, either alone or jointly with some other person, execute a guarantee in favour of a bank or another person or body of persons, whether corporate or unincorporate, for the repayment of, and payment of interest on, any loan (including a bank overdraft) made to the Authority for the purpose of performing any of its functions or exercising any of its powers under this Act.

(2) The following provisions shall apply to, and in respect of, a guarantee executed under subsection (1):—

(a) the guarantee may include any interest, charges, and expenses chargeable by the creditor against the Authority and the expenses of enforcing or obtaining, or endeavouring to enforce or obtain, payment of the debt guaranteed, that interest, those charges, or those expenses;

(b) the guarantee may be expressed to include compound interest;

(c) the creditor shall, if required to do so by the Treasurer, obtain, take and hold, or retain and hold securities for the payment of the principal debt of such nature as the Treasurer may require;

(d) the guarantee shall not be enforceable against the Treasurer unless and until the creditor has exercised his rights and remedies under all securities held by, or for, him in respect of the debt guaranteed, other than the guarantee.

(3) Subject to subsection (2), a guarantee executed under subsection (1) may be subject to such terms and conditions as the Treasurer thinks fit.

(4) The amount of any liability incurred under a guarantee executed under this section is a charge on the Consolidated Fund and is payable out of that Fund without further appropriation than this subsection.

30—The Authority shall, on or before 30th June in each year, pay to the Consolidated Fund such amount, if any, as the Treasurer, having regard to the financial viability of the Authority, may determine.

Payments by
Authority to
Consolidated
Fund.

PART V

MISCELLANEOUS AND SUPPLEMENTAL

31—(1) The Authority shall, not later than 30th November after the end of each financial year, submit to the Minister, in relation to that financial year—

Annual report.

- (a) a report of its affairs and activities;
- (b) a copy of the statement of accounts referred to in section 24; and
- (c) a copy of the Auditor-General's report with respect to those accounts.

(2) The Minister shall cause a copy of the report and accounts of the Authority, together with a copy of the Auditor-General's report with respect to those accounts, to be laid on the table of each House of Parliament within 14 sitting days of that House after receipt by him of the report and accounts.

32—All fines and penalties enforced or recovered under this Act shall be paid to the Authority.

Appropriation of
fines, &c.

33—Any fees or charges payable to the Authority under this Act may be recovered by the Authority as a debt or liquidated demand in a court of competent jurisdiction.

Recovery of fees
or charges.

34—(1) The Authority may make by-laws for the purposes of this Act.

By-laws.

(2) Without limiting the generality of subsection (1), by-laws may be made relating to—

- (a) the control and management of the subject land;
- (b) the proceedings of the Authority;
- (c) subject to any relevant industrial award or agreement, the terms and conditions of employment, and the functions, powers, and duties, of employees;

- (d) the conduct of persons resorting to the subject land;
and
 - (e) the use of the Authority's emblem.
- (3) By-laws under this section—
- (a) may be made subject to such conditions, or be made so as to apply differently according to such factors, as may be specified in the by-laws, or according to such limitations or restrictions, whether as to time or circumstance or otherwise, as may be so specified; and
 - (b) may provide that it is an offence, punishable on summary conviction, for a person to contravene, or fail to comply with, any of the by-laws and may provide in respect of any such offence for the imposition of a fine not exceeding 10 penalty units and, in the case of a continuing offence, a further fine not exceeding 2 penalty units for each day during which the offence continues.

Transitional
provisions.

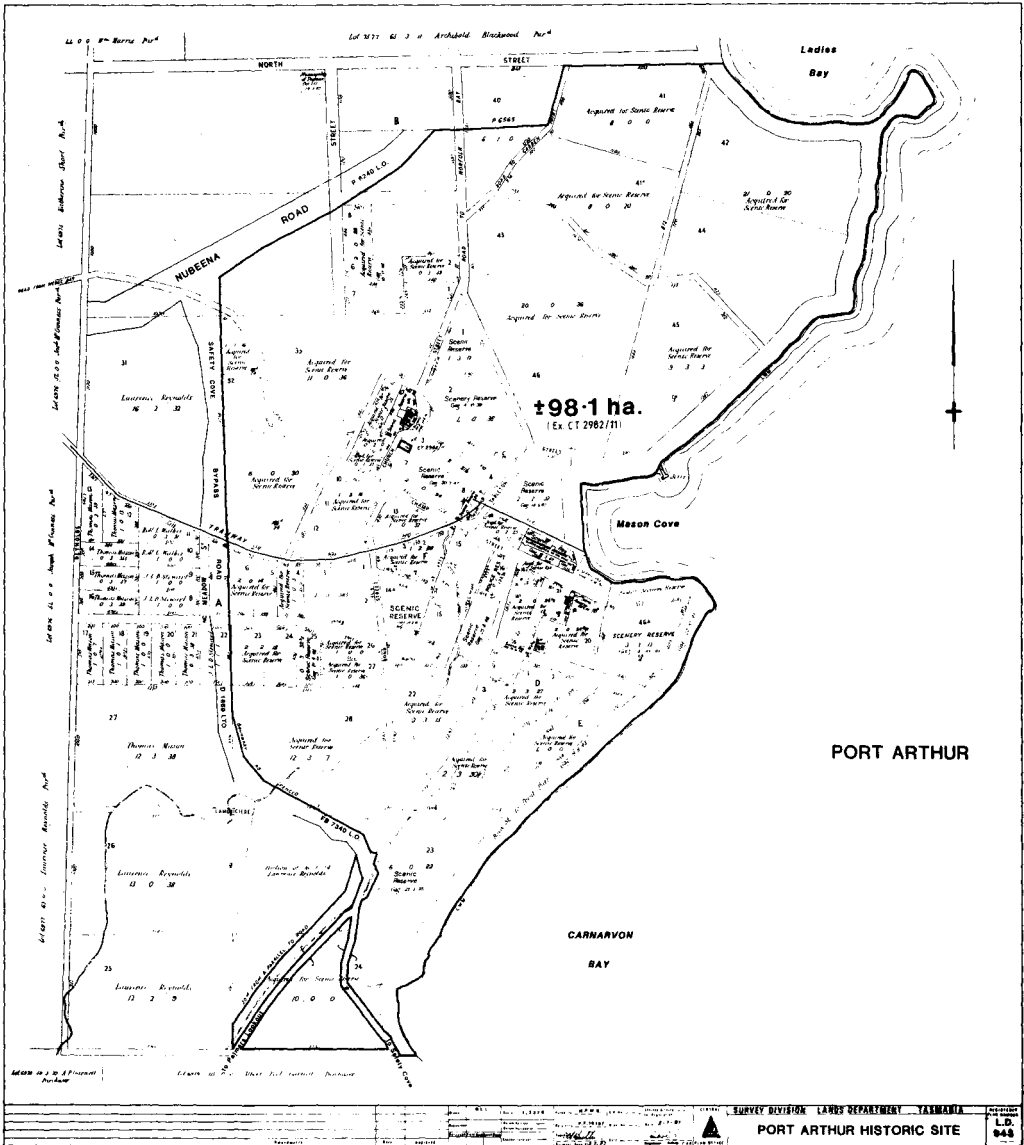
35—The transitional provisions set out in Schedule 5 have effect.

SCHEDULE 1
SUBJECT LAND

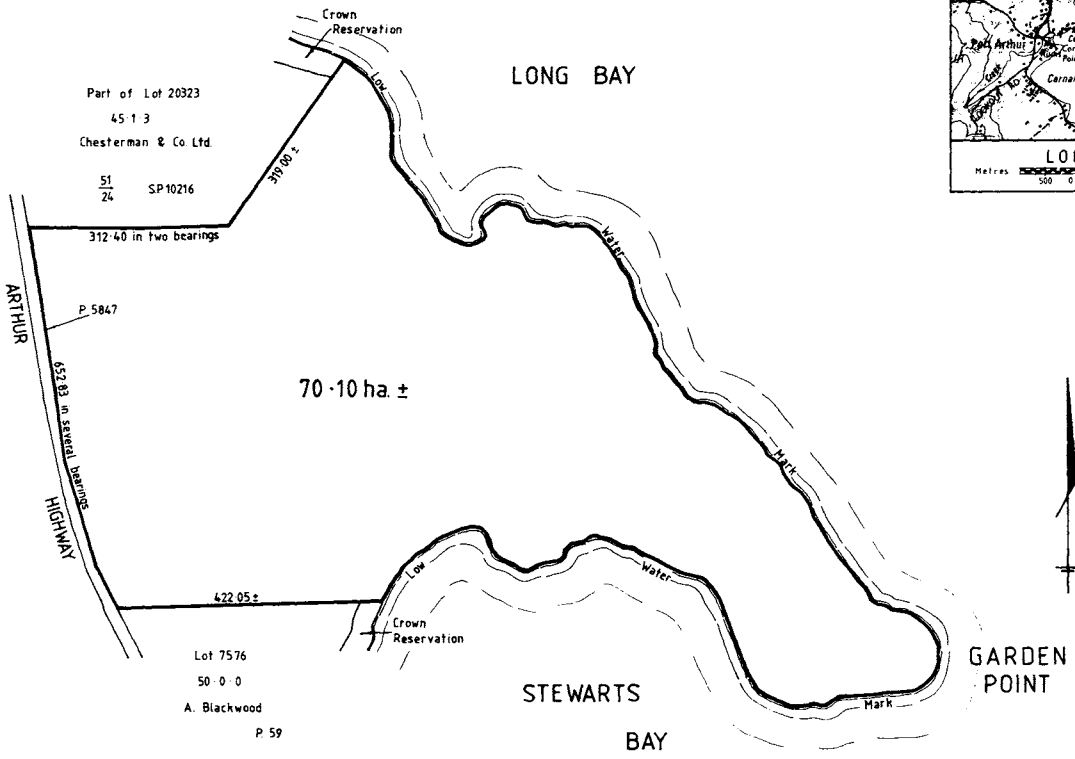
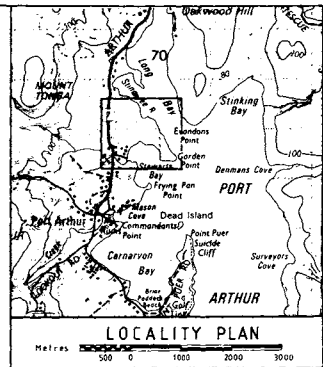
Section 3

PART I

HISTORIC SITE—MASON COVE PORTIONS



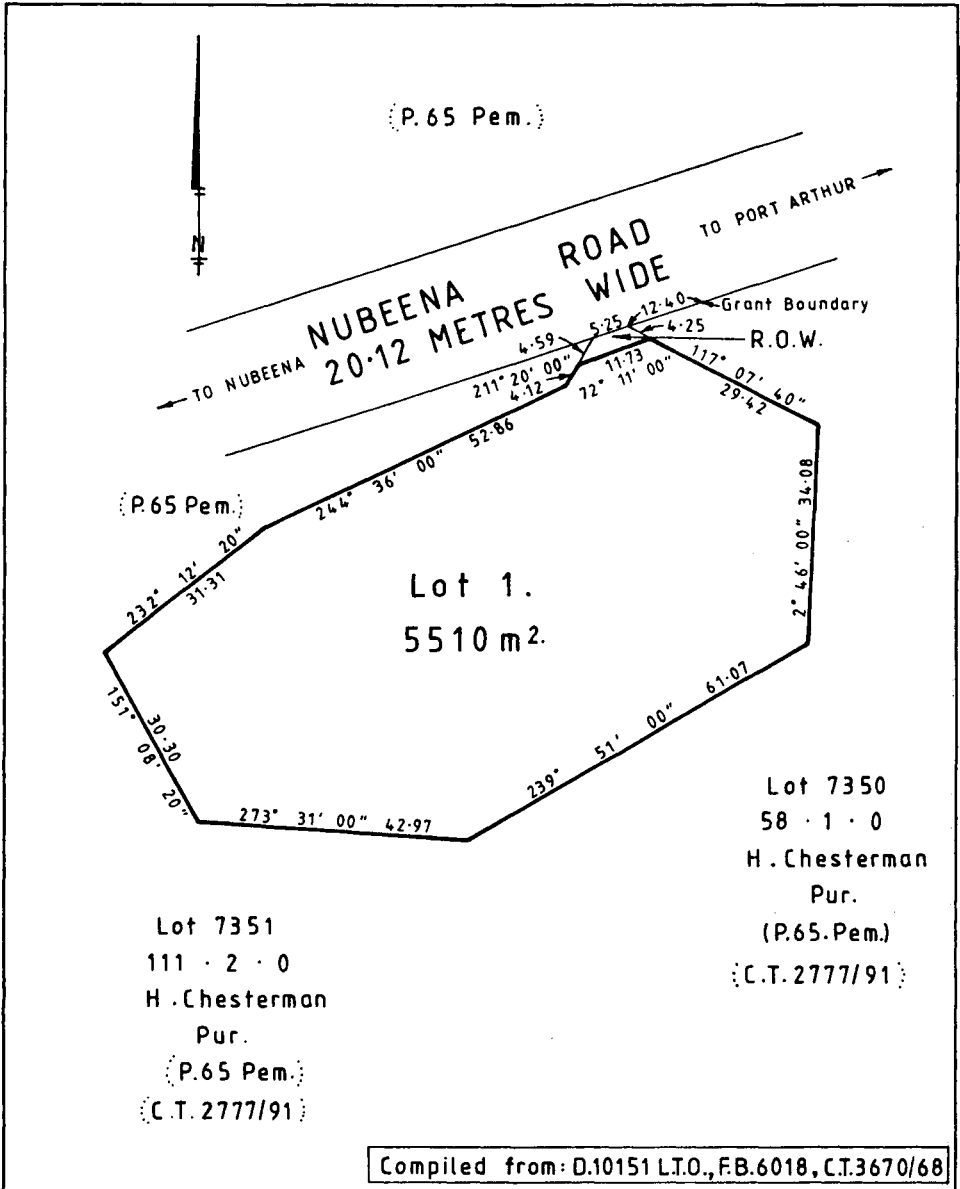
ADJACENT AREA—GARDEN POINT PORTION



	NO.	PRODUCTION / AMENDMENT	AUTHORITY REFERENCE	DRAWN	APPROVED	DATE	SCALE 1:4000	REGISTERED	STEWARTS BAY STATE RESERVE LD 940
	1	PRODUCTION		L.M.W.	<i>alls</i>	23.6.87	DATUM(M)	 SURVEYOR GENERAL DATE 2-7-87	
							DATUM(V)		
							CONTOUR		
	SURVEY	DEPARTMENT	TASMANIA	GAZETTED	STAT RULE				

PART IV

ADJACENT AREA—WATER-SUPPLY DAM SITE



<p>CENTRAL PLAN OFFICE</p>	<p>TOWN OF PORT ARTHUR PORT ARTHUR DAM SITE</p>				SCALE 1:750	<p>REGISTERED</p> <p><i>[Signature]</i></p> <p>SURVEYOR GENERAL</p> <p>DATE 17.7.87</p>	
					DATUM(M)		DATUM(V)
No	PRODUCTION / AMENDMENT	AUTHORITY	REFERENCE	DRAWN	APPROVED	DATE	<p>L.O. 947</p>
1.	PRODUCTION	SURVEY	L.C.10542	R.M.H.	<i>[Signature]</i>	16.7.87	
SURVEY DIVISION		LANDS DEPARTMENT	TASMANIA	GAZETTED:	STAT RULE:		

SCHEDULE 2

Section 5 (3)

PROVISIONS WITH RESPECT TO MEMBERSHIP OF THE AUTHORITY

1—(1) A member of the Authority referred to in section 5 (1) (c) shall Terms of office. be appointed for such term, not exceeding 5 years, as is specified in the instrument of his appointment and shall, if otherwise qualified, be eligible for re-appointment from time to time for a term, not exceeding 5 years, specified in the instrument of his re-appointment.

(2) The terms of office specified for the purposes of subclause (1) shall, so far as is possible, be such as to ensure that they expire at evenly spaced intervals.

(3) A member of the Authority appointed by the Governor to be the chairman of the Authority shall hold that office for such term, not exceeding—

(a) in the case of a member referred to in section 5 (1) (a) or (b)—
5 years; or

(b) in the case of a member of the Authority referred to in section 5 (1) (c)—the term of his appointment as a member,

as is specified in the instrument of his appointment as chairman and shall, if otherwise qualified, be eligible for re-appointment from time to time as chairman on the same conditions as to term of office.

2—Where, by or under any Act, provision is made requiring the holder of an office to devote the whole of his time to the duties of his office under that Act, that provision shall not operate to disqualify him from holding that office and also the office of a member of the Authority. Provisions requiring devotion of whole of time to other duties.

3—(1) Subject to subclause (2), a member of the Authority is entitled Remuneration. to be paid such remuneration (including travelling and subsistence allowances) as the Governor may from time to time determine, and the payment of any such remuneration shall be made out of the funds of the Authority.

(2) A member of the Authority who is—

(a) a Head of Agency, or an employee, within the meaning of the *Tasmanian State Service Act 1984*; or

(b) otherwise holding, or acting in, an office—

(i) under that Act; or

(ii) in an Agency within the meaning of that Act,

is not entitled to remuneration under subclause (1), except with the approval of the Minister administering that Act.

4—The *Tasmanian State Service Act 1984* does not apply to, or in respect of, the appointment of a member of the Authority and a member of the Authority shall not, in his capacity as such a member, be subject to that Act during his term of office. Tasmanian State Service Act 1984 not to apply.

5—(1) A member of the Authority referred to in section 5 (1) (a) or (b) may appoint as his deputy an employee employed in the Agency of which that member is, or is acting as, the head, and that deputy, while acting in the absence of that member, shall be deemed to be a member of the Authority, with all the powers, rights, and duties of that member (other than the power conferred by this subclause). Deputies of official members and persons appointed to act in place of appointed members.

(2) The Governor may appoint any person to act in the office of a member of the Authority referred to in section 5 (1) (c) while—

(a) the holder of that office is unable to attend to the duties of that office through illness or other cause; or

(b) that office is vacant,

and that person, while acting in that office, shall be deemed to be a member of the Authority, with all the powers, rights, and duties of the holder of that office.

(3) A person shall not be concerned to inquire whether or not any occasion has arisen requiring or authorizing a person to act in the office of a member of the Authority, and all things done or omitted to be done by that person while so acting shall be as valid, and shall have the same consequences, as if they had been done or omitted to be done by that member.

Vacation of
office.

6—(1) A member of the Authority shall be deemed to have vacated his office—

(a) when he dies;

(b) if he becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors, or makes an assignment of his remuneration or estate for their benefit;

(c) if he is absent from 3 consecutive ordinary meetings of the Authority of which reasonable notice has been given to him, either personally or in the ordinary course of post, unless—

(i) on leave granted by the Minister; or

(ii) before the expiration of 21 days after the last of those meetings, he is excused by the Minister for his absence from those meetings;

(d) if he is convicted in Tasmania of a crime or an offence which is punishable by imprisonment for a period of not less than 12 months, or if he is convicted outside Tasmania of an offence which, if committed in Tasmania, would be a crime or an offence so punishable;

(e) if he resigns his office by writing under his hand addressed to the Governor and the Governor accepts the resignation; or

(f) if he is removed from office by the Governor under subclause (2).

(2) The Governor may remove from office a member of the Authority if the Governor is satisfied that the member—

(a) has participated in, or has claimed to be entitled to participate in, the profit of, or any benefit arising from, any contract, agreement, or arrangement made by or on behalf of the Authority, other than a contract, agreement, or arrangement for a service ordinarily supplied by the Authority, on the same terms as that service is supplied to other persons in the same situation;

(b) has voted at any meeting of the Authority in respect of any matter in which he was at that time interested (otherwise than as a member of the public or as an elector of, or ratepayer to, any municipality, or as a shareholder in a company in which there were at that time more than 20 members and of which he was not at that time a director or officer); or

(c) is unable to perform adequately the duties of his office.

(3) A member of the Authority shall not be removed from office otherwise than in accordance with this clause.

7—(1) No act or proceeding of the Authority or of any person acting pursuant to any direction of the Authority is invalidated or prejudiced by reason only of the fact that, at the time when the act or proceeding was done, taken, or commenced, there was a vacancy in the membership of the Authority. Validity of proceedings, &c.

(2) All acts and proceedings of the Authority or of any person acting pursuant to any direction of the Authority are, notwithstanding the subsequent discovery of any defect in the appointment of any member of the Authority or that any person was disqualified from acting as, or incapable of being, a member of the Authority, as valid as if the member had been duly appointed and was qualified to act, or capable of being, a member, and as if the Authority had been fully constituted.

(3) Where a member of the Authority, or any person acting pursuant to any direction of the Authority, does or purports to do, or omits or purports to omit to do, any act or thing in good faith for the purpose of administering or executing this Act, he shall not be personally subjected to any action, liability, claim, or demand in respect of that act or omission.

8—In any proceedings by or against the Authority, unless evidence is given to the contrary, no proof shall be required of— Presumptions.

(a) the constitution of the Authority;

(b) any resolution of the Authority;

(c) the appointment of any member of the Authority; or

(d) the presence of a quorum at any meeting of the Authority.

SCHEDULE 3

Section 5 (4)

PROVISIONS WITH RESPECT TO MEETINGS OF THE AUTHORITY

Convening of meetings of the Authority.

1—Meetings of the Authority may be convened by the chairman of the Authority or by any 4 members of the Authority.

Procedure at meetings.

2—(1) Three members of the Authority shall form a quorum at any duly convened meeting of the Authority.

(2) Any duly convened meeting of the Authority at which a quorum is present shall be competent to transact any business of the Authority.

(3) Questions arising at a meeting of the Authority shall be determined by a majority of votes of the members of the Authority present and voting.

Chairmanship of meetings.

3—(1) The chairman of the Authority shall preside at all meetings of the Authority at which he is present.

(2) If the chairman of the Authority is not present at a meeting of the Authority, a member of the Authority elected by the members present shall preside at that meeting, notwithstanding the presence at that meeting of a person acting, in pursuance of an appointment under clause 5 (1) or (2) of Schedule 2, in the office of member of the Authority held by the chairman.

(3) The member presiding at a meeting of the Authority has a deliberative vote and, in the event of an equality of votes, also has a casting vote.

Disclosure of interests.

4—(1) A member of the Authority who has a direct or indirect pecuniary interest in a matter being considered or about to be considered by the Authority shall, as soon as possible after the relevant facts have come to his knowledge, disclose the nature of his interest at a meeting of the Authority.

(2) A disclosure under subclause (1) shall be recorded in the minutes of the meeting of the Authority and the member shall not, unless the Authority otherwise determines—

(a) be present during any deliberation of the Authority with respect to that matter; or

(b) take part in any decision of the Authority with respect to that matter.

(3) For the purpose of making a determination by the Authority under subclause (2) in relation to a member who has made a disclosure under subclause (1), a member who has a direct or indirect pecuniary interest in the matter to which the disclosure relates shall not take part in the making by the Authority of the determination.

General procedure.

5—The procedure for the calling of, and for the conduct of business at, meetings of the Authority shall, subject to any procedure that is specified in this Schedule, be as determined by the Authority.

SCHEDULE 4

Section 9 (3)

PROVISIONS WITH RESPECT TO THE APPOINTMENT, AND THE TERMS
AND CONDITIONS OF EMPLOYMENT, OF EMPLOYEES OF THE AUTHORITY

1—(1) Subject subclause (2), a person who has attained the age of 65 years shall not be appointed as an employee, and an employee who attains that age shall cease to be so employed. Age of employees.

(2) Subclause (1) does not prevent the employment by the Authority of a person who has attained the age of 65 years in a temporary capacity in any case where the Authority is satisfied that he has special qualifications and experience for his duties.

2—(1) An employee shall perform such functions as the Authority may from time to time determine. Functions of employees.

(2) Where an employee does or purports to do, or omits or purports to omit to do, any act or thing in good faith for the purpose of administering or executing this Act, he shall not be personally subjected to any action, liability, claim, or demand in respect of that act or omission.

3—Subject to the provisions of this Schedule, the terms and conditions of employment (including remuneration, allowances, and leave) of employees shall, subject to any award or industrial agreement relating to persons engaged in the work for which they are appointed and employed, be as determined by the Authority. General terms and conditions of employment.

4—An employee, in his capacity as an employee of the Authority, is not subject to the provisions of the *Tasmanian State Service Act 1984*. Employees not subject to Tasmanian State Service Act 1984.

5—(1) Subject to subclause (2), an employee who is employed in a permanent capacity shall be deemed to be an employee within the meaning of the *Retirement Benefits Act 1982*. Retirement benefits.

(2) The terms and conditions of employment of an employee may make provision to have effect in relation to him in place of the provisions of the *Retirement Benefits Act 1982*.

6—The Authority shall be deemed to be a State authority within the meaning of the *State Employees (Long-Service Leave) Act 1950* and, in relation to employees, the Authority shall be deemed to be the prescribed authority for the purposes of that Act. Long-service leave.

7—(1) Where an employee within the meaning of the *Tasmanian State Service Act 1984* is appointed as an employee of the Authority— Provisions applicable where employee under Tasmanian State Service Act 1984, is appointed as employee of Authority.

(a) he is entitled to retain all his existing and accruing rights as if his service as an employee of the Authority were a continuation of his service as an employee within the meaning of that Act; and

(b) section 66 of that Act applies in relation to him, in respect of the filling of a vacancy under that Act, as if his service as an employee of the Authority were service as a permanent employee within the meaning of that Act, and, for the purposes of that section, he shall be deemed to be such a permanent employee while he remains an employee of the Authority.

(2) Where an employee within the meaning of the *Tasmanian State Service Act 1984*—

(a) is appointed as an employee of the Authority; and

(b) on ceasing to be an employee of the Authority again becomes an employee within the meaning of that Act,

his service as an employee of the Authority shall be regarded as service in the State Service for the purpose of determining his rights as an employee within the meaning of that Act.

SCHEDULE 5

Section 35

TRANSITIONAL PROVISIONS

1—The first meeting of the Authority shall be convened in accordance with directions given by the Minister. First meeting of Authority.

2—(1) On and after the commencing day, all agreements, contracts, leases, licences, and undertakings in relation to the subject land that were, immediately before that day, binding on the Minister or the Director of the National Parks and Wildlife Service bind the Authority, in substitution for the Minister or the Director, as the case requires. Agreements, &c., to bind Authority.

(2) Notwithstanding anything in any other provision of this Act, where, immediately before the commencing day, proceedings to which the Minister or the Director of the National Parks and Wildlife Service was a party were pending in any court in relation to a matter arising out of the management of the pre-existing reserve or any other land forming part of the subject land, the Minister or the Director, as the case requires, continues, on and after the commencing day, as a party to those proceedings.

3—(1) On, or as soon as practicable after, the commencing day, the Minister shall transfer, or cause to be transferred, to the Authority such of the assets owned by the State and held or used, immediately before the commencing day, in connection with the management by the Director of the National Parks and Wildlife Service of the pre-existing reserve or any other land forming part of the subject land as are, in the opinion of the Minister, appropriate to be used by the Authority in connection with the performance of its functions. Transfer of assets, &c.

(2) The Director of the National Parks and Wildlife Service shall execute any instrument required for the purposes of subclause (1) and shall not be personally subjected to any action, liability, claim, or demand in respect of the execution in good faith of any such instrument.

(3) On the transfer to the Authority of any asset in pursuance of subclause (1), the Authority is, by force of this clause, liable to pay, satisfy, observe, perform, and discharge the debts, liabilities, and obligations of the State in relation to that asset and is bound by any covenant or trust in relation to that asset to which the State was subject.

4—A lease or licence, in respect of land the whole or part of which forms part of the subject land, that was granted by the Minister, on behalf of the Crown, under the *Crown Lands Act 1976* or under any other Act for which that Act was substituted, and had not expired on or before the day immediately preceding the commencing day shall, on and after the commencing day, be taken to have been granted, on behalf of the Crown, by the Authority. Leases and licences.

5—(1) Notwithstanding anything in the *Crown Lands Act 1976*, the *Local Government (Highways) Act 1982*, the *National Parks and Wildlife Act 1970*, or the *Roads and Jetties Act 1935*, but subject to subclause (2)— Substitution of subject land for pre-existing reserve.

(a) the portions of the subject land that, immediately before the commencing day, did not form part of the pre-existing reserve are, by force of this subclause, deemed, on and after that day, to have the character of State reserves for the purposes of the *National Parks and Wildlife Act 1970*;

(b) any public rights of passage existing immediately before the commencing day over any of those portions are, by force of this subclause, extinguished on and after that day;

- (c) the parcels of land that, immediately before the commencing day, formed part of the pre-existing reserve but do not form part of the subject land cease, on that day, to have the character of State reserves for the purposes of the *National Parks and Wildlife Act 1970*; and
- (d) the proclamation under section 15A of the *National Parks and Wildlife Act 1970* that was published as Statutory Rules 1985, No. 46, is, by force of this subclause revoked with effect from the expiration of the day immediately preceding the commencing day.

(2) Subject to this Act, nothing in subclause (1) prevents the exercise, in relation to any land referred to in that subclause, of any power conferred by or under any of the Acts referred to in that subclause.

Transfer of staff
from State
Service.

6—(1) The Minister may, after taking into consideration any advice tendered to him by the Authority and any advice tendered to him by the Secretary, Department of Lands, Parks and Wildlife, by notice in the *Gazette*, specify—

- (a) the offices of the State Service within the meaning of the *Tasmanian State Service Act 1984* the holders of which will on the commencing day become employees of the Authority; and
- (b) the temporary employees within the meaning of that Act who will, on that day, become temporary employees of the Authority, and, on that day, notwithstanding that Act—
- (c) those offices are abolished; and
- (d) the persons holding those offices, and those temporary employees, are transferred to the employment of the Authority, according to the tenor of the notice.

(2) Subject to any other Act or an award made under any other Act, where a person is transferred to the employment of the Authority under subclause (1), that person—

- (a) is, in respect of that employment, entitled to the same rights and privileges as if he had continued to hold an office in the State Service; or
- (b) shall be employed by the Authority on the same terms and conditions as those to which he was subject immediately before the commencing day,

as the case requires.