

TOURIST DEVELOPMENT (SECRET HARBOUR) AGREEMENT.

No. 106 of 1984.

AN ACT to amend the Tourist Development
(Secret Harbour) Agreement Act 1983.

[Assented to 19 December 1984.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the *Tourist Development (Secret Harbour) Agreement Amendment Act 1984*. Short title.
and principal
Act.

(2) In this Act the Tourist Development (Secret Harbour) Agreement Act 1983 is referred to as the principal Act. Act No. 81
of 1983.

Commence-
ment.

2. This Act shall come into operation on the day that the Secret Harbour Management Trust Act 1984 comes into operation.

Section 2
amended.

3. Section 2 of the principal Act is amended—

(a) in the definition of “the Agreement” by deleting “the Schedule” and substituting the following—

“ Schedule 1 ”;

(b) by deleting the full stop after the definition of “the Agreement” and substituting a semi-colon; and

(c) by inserting after the definition of “the Agreement” the following definition—

“ “the variation agreement” means the agreement a copy of which is set forth in Schedule 2 to this Act. ”.

Section 4
inserted.

4. The principal Act is amended by inserting after section 3 the following section—

Execution of
variation
agreement
authorized.

“ 4. (1) The execution by or on behalf of the State of an agreement substantially in accordance with the form of the variation agreement is hereby authorized.

(2) The variation agreement when executed pursuant to subsection (1) operates and has effect according to its terms notwithstanding any other Act or law. ”.

Heading to
Schedule
substituted.

5. The heading to the Schedule to the principal Act is deleted and the following headings are substituted—

“ THE SCHEDULES.

SCHEDULE 1. ”.

6. The principal Act is amended by adding the following Schedule—

Schedule 2
added.

“ SCHEDULE 2.

THIS AGREEMENT is made the day of
19 BETWEEN: THE HONOURABLE BRIAN
THOMAS BURKE, M.L.A., Premier of the State of
Western Australia, acting for and on behalf of the
said State and its instrumentalities from time to time
(hereinafter called “the State”) of the one part and
SECRET HARBOUR PTY. LTD. a company incorporated
in the State of Western Australia and having
its registered office at 115 Cambridge Street, Leeder-
ville (hereinafter called “the Company” in which term
shall be included its successors and permitted assigns)
of the other part.

WHEREAS:

- (a) the State and the Company are the parties to
the agreement dated the 23rd day of November,
1983 which was ratified by the Tourist Develop-
ment (Secret Harbour) Agreement Act 1983
(which agreement is hereinafter referred to as
“the principal Agreement”); and
- (b) the parties desire to vary the principal
Agreement.

NOW THIS AGREEMENT WITNESSETH—

1. Subject to the context the words and expressions
used in this Agreement have the same meanings
respectively as they have in and for the purpose of
the principal Agreement.

2. The provisions of this Agreement shall not come into
operation until a Bill to approve and ratify this Agree-
ment is passed by the Legislature of the said State and
comes into operation as an Act.

3. The principal Agreement is hereby varied as
follows—

(1) Clause 1—

by deleting the definition of “Capital Fund”.

(2) Clause 5 subclause (3)—

by deleting paragraph (f).

(3) Clause 15—

(a) subclause (1)—

- (i) by inserting after the definition of “Approval” the following definition—

“ “Capital Fund Account” means the Secret Harbour Capital Fund Account maintained by the Management Trust; ”;

- (ii) by deleting the definition of “Capital Fund Trustee”;

(b) subclause (2)—

by deleting subclause (2) and substituting the following—

“ (2) The Company shall pay to the Management Trust for the credit of the Capital Fund Account—

- (a) during the period of five years from the first sale of land within the Development Area an amount equal to 2.5% of the value of all land within the Development Area sold by the Company; and

- (b) during each successive period of 5 years thereafter an amount equal to 2.5% of the value of all land within the Development Area sold by the Company or such lesser or greater percentage as may be agreed between the Company and the Minister, or failing agreement, if either party so requires, as may be determined by arbitration in accordance with

Clause 27 having regard to the need of the Management Trust to hold funds for the purposes of major maintenance of or reconstruction of the walls of the Inner Harbour and the Outer Harbour, the Breakwaters, the Sand By-pass System and associated dredging and navigational aids within the Inner Harbour and the Outer Harbour but in any event not exceeding 4% of such value.

For the purpose of this subclause land shall be deemed to be sold by the Company when it receives the sale price.”;

(c) subclause (3)—

by deleting “the Capital Fund Trustee or otherwise to or for the credit of the Capital Fund” and substituting the following—

“ the Management Trust for the credit of the Capital Fund Account ”;

(d) by deleting subclauses (4), (5), (6) and (7);

(e) subclause (8)—

(i) by deleting “the Capital Fund” and substituting the following—

“ the Management Trust ”;

(ii) by deleting “the Capital Fund Trustee”, in both cases where it occurs, and substituting the following—

“ the Management Trust ”;

(f) subclause (9)—

by deleting “the Capital Fund Trustee” and substituting the following—

“ the Management Trust ”.

(4) The Second Schedule—

Clause 2 (7) of the Special Lease—

- (a) by deleting, in the definition of "Minister for Transport", "Western Australian Marine Act 1948" and substituting the following—

" Western Australian Marine Act 1982 ";

- (b) by deleting, in the definition of "Mooring licence", "Marine Act 1983" and substituting the following—

" Western Australian Marine Act 1982 ".

IN WITNESS WHEREOF this Agreement has been executed by or on behalf of the parties hereto the day and year first hereinbefore mentioned.

SIGNED by the said THE
HONOURABLE BRIAN
THOMAS BURKE, M.L.A. }
in the presence of:

MINISTER FOR PLANNING

THE COMMON SEAL of
SECRET HARBOUR PTY.
LTD. was hereunto affixed
by authority of the Board of
Directors in the presence of: }

Director

Secretary

”.