

91/100
Dated the 30th June 1922

Purchase of *Frederick*
By

THE HONORABLE ARTHUR ROBINSON HIS
MAJESTY'S ATTORNEY GENERAL FOR THE
STATE OF VICTORIA

- With -

MELBOURNE AND METROPOLITAN TRAMWAYS
BOARD.

AGREEMENT.

91/94.

J. ...

Dr. ...
...
1917

THIS AGREEMENT made the thirtieth day of June one thousand nine hundred and twenty two B e t w e e n THE HONORABLE ARTHUR ROBINSON His Majesty's Attorney General for the State of Victoria and the responsible Minister of the Crown for the time being administering the State Electricity Commission Acts for and on behalf of His Majesty's Victorian State Government (hereinafter called "the Minister" which expression shall include his successors in office) of the one part and the MELBOURNE AND METROPOLITAN TRAMWAYS BOARD (hereinafter referred to as "the Board") of the other part W H E R E A S by agreement under seal of even date herewith made between THE NORTH MELBOURNE ELECTRIC TRAMWAYS & LIGHTING COMPANY LIMITED (hereinafter referred to as "the Company") of the one part and the Minister of the other part the Minister has agreed with the Company to purchase from the Company ALL the undertakings of the Company established for the construction operation and maintenance of electric tramways and for the supply of electric energy for public and private purposes within the municipal districts of the city of Essendon and of the city of Melbourne subject to certain conditions covenants terms stipulations and provisos in that agreement contained AND WHEREAS the Board is a statutory corporation incorporated under the Melbourne and Metropolitan Tramways Act 1918 but is not by that Act presently authorized to acquire from the Minister the tramway portion of the undertakings aforesaid AND WHEREAS it is proposed that Parliament shall be asked to empower the Board to acquire the tramway portion of the undertakings aforesaid from the Minister and generally to validate these presents from the date hereof NOW THIS AGREEMENT WITNESSETH that conditionally upon Parliament empowering the Board to acquire the tramway portion of the undertakings aforesaid IT IS HEREBY AGREED as follows:-

1. (A) The Minister shall sell to the Board and the Board shall purchase from the Minister ALL the tramway portion of the undertakings of the Company as acquired by the Minister from the Company under or by virtue of the said agreement under seal of even date herewith for a contract price (hereinafter referred to as "the contract price") comprising (a) the sum of thirty one thousand two hundred and fifty pounds (£31250) and (b) an additional sum not exceeding the sum of three thousand pounds (£3000) representing the fair market value of certain stores which are hereinafter in clause 2 provided to be paid for by the Board.

(B) The contract price shall be paid by the Board in Melbourne as follows:-

- (i) On the date of taking possession a sum of two thousand five hundred pounds shall be paid by the Board to the Minister.
- (ii) Within two weeks after the date of taking possession the remainder of the contract price shall be paid by the Board to the Minister.

(C) If from any cause whatever other than the wilful act or default of the Minister any sum to be paid by the Board hereunder shall not have been paid in full on the date when the same is due and payable hereunder the Board shall pay to the Minister interest on the amount remaining unpaid to be calculated from the date when the same should have been paid hereunder to the date of payment at the rate of six pounds per centum per annum.

2. The Board shall subject to the proviso in this clause lastly contained pay the Minister in addition to the sum of thirty one thousand two hundred and fifty pounds aforesaid a sum which shall be the fair market value of any new and unused tramway stores handed over to the Board by the Minister which are deemed to be in excess (as to any given class of stores) of the ordinary business requirements of the tramway portion of the undertakings for a period of three months then next ensuing PROVIDED HOWEVER that the additional amount (if any) to be paid under the provisions of this clause shall not exceed the sum of three thousand pounds.

3. The Board shall relieve the Minister of all his duties and obligations and liabilities related to or connected with the tramway portion of the undertakings or the conduct thereof at all or any time subsequent to the date of taking possession (as hereinafter defined) whether the same arise under any statute or Order in Council or any agreement taken over by the Minister from the Company.

4. The Board shall be entitled to possession of the tramway portion of the undertakings on the first day of August one thousand nine hundred and twenty two (herein referred to as "the date of taking possession").

5. Where under clauses 10 and 11 of the said agreement under seal between the Minister and the Company of even date herewith the Minister has agreed to pay any proportion of any insurance premiums in respect of any insurance upon or any outgoings made levied assessed or charged on or in respect of or affecting any property to be acquired by the Minister from the Company the Board shall reimburse to the Minister so much thereof as shall represent the fair proportion of the respective premiums or out-

goings other than Federal and State land and income taxes respectively relating to the tramway portion of the undertakings.

6. The Board covenants with the Minister and his successors in office

(a) to permit the Company to have the use without charge of the office accommodation at the office at Mount Alexander Road Ascot Vale acquired by the Minister from the Company and the services of any member or members of the Company's former staff whose services may have been transferred to the service of the Board so far as may be mutually agreed upon between the representatives of the Company and the Board as being reasonably necessary for the purpose of winding up the Company's affairs in Australia for such period as may be so agreed upon but not exceeding four months immediately succeeding the date of the Board taking possession.

(b) that subject to clause 3 hereof the Board will take into its service all officers servants and persons (other than Arthur Douglas Murdoch of Mount Alexander Road Ascot Vale Gentleman) who immediately prior to the date of taking possession were exclusively employed by the Company for the purpose of the tramway portion of the said undertakings and that so long as they remain in its service they shall be in no worse position than they would have been if they had continued in the service of the Company.

7. The Minister for himself his successors and assigns covenants with the Board and the Board covenants with the Minister his successors and assigns that as to any poles or posts erected and used in connection with both the tramway portion of the undertakings and the electric light and power portion of the undertakings the party who acquires the same whether under this agreement or by any subsequent agreement (referred to herein as "the Owner") shall permit and grant a licence to the other party concerned whether directly hereunder or by assignment (referred to herein as "the Licensee") to affix or keep affixed to such post or poles and repair and maintain and replace thereon all fittings and wires for the purpose of the portion of the undertakings acquired by the Licensee at a rental of three shillings per annum per pole or post so used with the right to erect upon such poles additional cables wires and fittings as may hereafter become necessary for the proper operation of the said tramways or other the works of the Licensee but not so as to interfere with the wires and cables of the said Owner and the Owner shall keep and maintain in proper and sufficient order and repair such

pole or post as may be necessary from time to time.

8. The Board shall accept such title as the Minister shall acquire from the Company to all property comprised in the tramway portion of the undertakings.

9. AND IT IS AGREED AND DECLARED that for the purposes of this agreement the term "tramway portion of the undertakings" shall be deemed to include the powers rights privileges and authorities conferred on or heretofore enjoyed by the Company by virtue of the Order in Council dated the fourth day of May one thousand nine hundred and four issued by the Governor in Council under the Tramways Act 1890 to the municipal councils of the town of Essendon (now the city of Essendon) and of the Borough of Flemington and Kensington (now part of the city of Melbourne) or necessary for the proper enjoyment of the tramway portion of the Company's undertakings together with the tramways constructed or laid pursuant to such orders and buildings appurtenances rolling stock equipment machinery plant cables conveniences appliances horses assets or things (including the right of user of any patent and any choses in action) owned by the Company and used by it exclusively in connection with the tramway portion of the undertakings and acquired by the Minister from the Company under or pursuant to the aforesaid agreement under seal of even date herewith (including so much of the land acquired from the Company in Mount Alexander Road Ascot Vale as is referred to in the First Schedule hereto but excluding the land (together with the buildings thereon and plant therein) referred to in the Second Schedule hereto) free from all mortgages debentures or charges AND ALSO all the right title and interest acquired by the Minister to all the property referred to in the Third Schedule hereto.

IN WITNESS whereof the Minister has hereunder set his hand and seal and the Common Seal of the Board hath hereto been affixed the day and year first above written.

FIRST SCHEDULE REFERRED TO ABOVE.

ALL THAT piece or parcel of land more particularly described in the plan drawn on the back hereof and thereon colored red Together with the right of passage for tramcars and other vehicles having flanged wheels to pass and re-passover the land colored green on the said plan Together also with the right to enter upon such land colored green to effect all necessary maintenance repairs and alterations to the existing

tramway track or so much thereof as is laid out on the said land colored green.

SECOND SCHEDULE REFERRED TO ABOVE.

ALL the remaining portion of the land in Certificate of Title volume 3053 folio 710541 other than the said land referred to in the said First Schedule and more particularly shown on the plan drawn on the back hereof and thereon colored yellow and green subject to the easement aforesaid.

THIRD SCHEDULE REFERRED TO ABOVE.

So much of the property and assets of every kind whatsoever other than the land referred to in the Second Schedule hereto and the buildings thereon and the plant therein owned by the Company and used in connection with both the tramway portion of the undertakings and the electric light and power portion of the undertakings of the Company as may be mutually agreed upon or as in default of agreement shall be determined by the Governor in Council.

SIGNED SEALED AND DELIVERED by the
said Arthur Robinson for and on
behalf of the Government of Victoria
in the presence of


Arthur Robinson

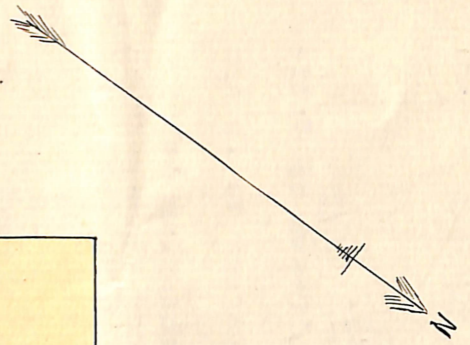
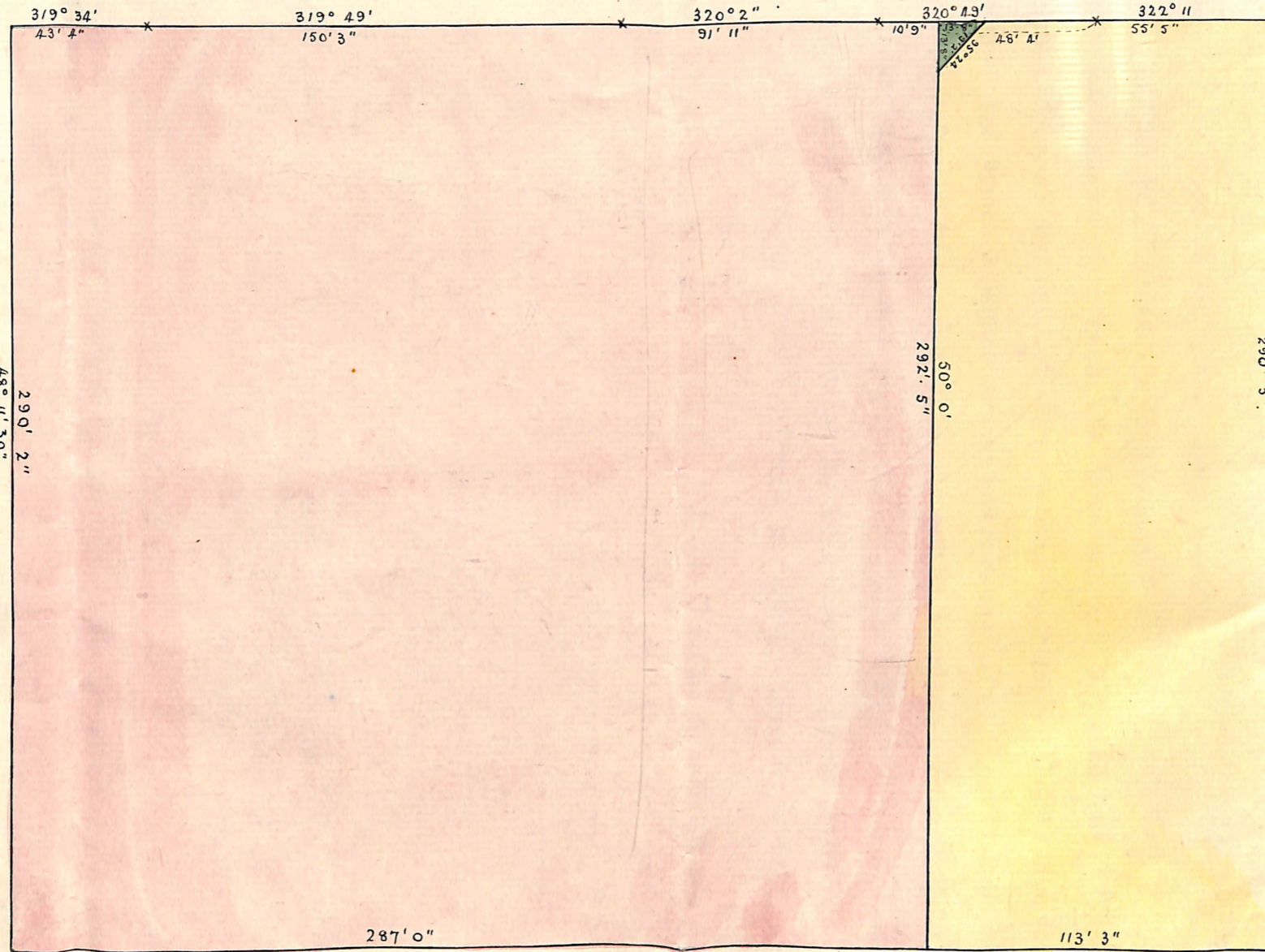
W. H. ...

THE COMMON SEAL of the MELBOURNE
AND METROPOLITAN TRAMWAYS BOARD was
hereto affixed in the presence of

(Seal)

G. L. ...
W. H. ...

MT ALEXANDER ROAD



*Plan of land
1950/11/15*

MADURA STREET.

BENGAL STREET.