

Aboriginal Land Rights Amendment (Gandangara Estate) Bill 2004

New South Wales

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend the *Aboriginal Land Rights Act 1983* (the **Principal Act**) to validate the subdivision by the Gandangara Local Aboriginal Land Council (**Gandangara LALC**) of land known as the Gandangara Estate at Barden Ridge, Menai, and the subsequent sale (before the commencement of the amendment) of residential lots in the subdivision.

The Principal Act imposes procedural requirements on dealings with land vested in Local Aboriginal Land Councils. Certain irregularities in complying with those requirements may have resulted in the subdivision and subsequent sale of residential lots in the Gandangara Estate being in contravention of the Principal Act and invalid. The Bill resolves any such irregularities by deeming there to have been compliance with the relevant requirements of the Principal Act in respect of the subdivision of the Gandangara Estate and in respect of the sale before the commencement of the amendment of lots created in the subdivision.

The Bill also validates the subdivision and lot sales and the exercise of functions by the Registrar-General.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent.

Clause 3 is a formal provision that gives effect to the amendment to the Principal Act set out in Schedule 1.

Schedule 1 Amendment

Schedule 1 inserts a new Part 6 into the Schedule of savings, transitional and other provisions of the Principal Act to validate the subdivision by Gandangara LALC of the Gandangara Estate and the subsequent sale of lots in the subdivision.

The proposed new Part contains the following provisions:

(a) Proposed clause 35 contains definitions. An important definition is that of **disposal** which includes sale and other land dealings that are regulated under sections 40B and 40D of the Principal Act.

(b) Proposed clause 36 deems there to have been compliance with sections 40B and 40D of the Principal Act in respect of any disposal of Gandangara Estate land by Gandangara LALC before the commencement of the amendment, including the subdivision of that land, the creation of roads and easements by the subdivision and the sale of lots created in the subdivision. Sections 40B and 40D required the approval of the NSW Aboriginal Land Council to authorise subdivision of the land and required a special resolution of the Gandangara LALC and the approval of the NSW Aboriginal Land Council to authorise its disposal.

(c) Proposed clause 37 validates the subdivision and sales of lots that have occurred before the commencement of the amendment, and action by the Registrar-General to give effect to the subdivision and sales. The clause validates not only sales by Gandangara LALC but also subsequent sales by purchasers from Gandangara LALC.

(d) Proposed clause 38 makes it clear that a certificate under an existing provision certifying as to compliance with section 40D can (but need not) be issued and is not required as a precondition to the exercise of functions by the Registrar-General.

(e) Proposed clause 39 provides that the operation of the new provisions is not affected by a person having notice of any contravention of section 40B or 40D of the Principal Act.