



New South Wales

Royal Botanic Gardens and Domain Trust Amendment Bill 1999

Explanatory note

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

Overview of Bill

The objects of this Bill are to enable the Royal Botanic Gardens and Domain Trust (the Trust):

- (a) to grant leases of certain of its lands, or leases for certain purposes, for terms in excess of the 8 years to which such leases are currently limited, and
- (b) to grant easements through, on or in its lands, and licences for the use of its lands, for a wider range of purposes than it currently may, and
- (c) to enter into an agreement as lessee, sub-lessee or licensee in respect of the upper surface, and the airspace above the upper surface, of the land bridge erected over the proposed Eastern Distributor near the Art Gallery of New South Wales.

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 a day or days to be appointed by proclamation.

Clause 3 is a formal provision giving effect to the amendments to the *Royal Botanic Gardens and Domain Trust Act 1980* set out in Schedule 1.

Schedule 1 Amendments

At present, section 20 (2) of the *Royal Botanic Gardens and Domain Trust Act 1980* (the Act) allows the Trust to grant a lease of any part of the land described in Schedule 2 to the Act and any other land acquired by the Trust (collectively known as *Trust lands*) for a commercial purpose (such as a restaurant), or any other purpose, not prejudicial to the objects of the Trust. However, the Trust may grant easements through, on or in only the Trust lands described in Schedule 2 to the Act, and licences authorising entry on those lands only, and only for the purposes specified in the section. The terms and conditions of any lease, easement or licence must be approved by the Minister.

Section 20 (3) currently limits the term of a lease granted under the section to a maximum of 8 years (including the term of any further lease that may be granted on the exercise of an option contained in the lease).

Schedule 1 [1] repeals and re-enacts section 20 (2) and (3) to make it clear that:

- (a) the Trust may grant leases, easements and licences (on terms and conditions approved by the Minister) in relation to *any* part of the Trust lands for *any* purpose that is not prejudicial to the objects of the Trust, and
- (b) other provisions of the Act may allow leases to be granted for a term in excess of 8 years.

Schedule 1 [2] amends a cross-reference as a consequence of the re-enactment of section 20 (2).

Schedule 1 [3] inserts proposed sections 20A and 20B in the Act.

Proposed section 20A enables the Trust to grant certain leases for terms in excess of 8 years. A lease granted for the purpose of a restaurant or cafe may be for any term that does not exceed 10 years (including the term of any further lease that may be granted on the exercise of an option contained in the lease). A lease of the land

specified, or for the purpose specified, in proposed section 20A (2) may be granted for any term that does not exceed 50 years (including the term of any further lease that may be granted on the exercise of an option contained in the lease).

The leases for which a term of up to 50 years is envisaged relate to the following:

- (a) the Domain Parking Station and the associated moving footway (the parking station land),
- (b) the fuel oil installations previously used by the Commonwealth (the fuel oil installation land),
- (c) the land bridge erected over the proposed Eastern Distributor near the Art Gallery of New South Wales,
- (d) the Andrew “Boy” Charlton Pool,
- (e) Cook and Phillip Parks.

The proposed section requires the Minister to consult the Treasurer in relation to both the use to which the parking station land and the fuel oil installation land is to be put under a future lease or licence, and the terms and conditions of any proposed lease, or licence for the use, of those lands. The Trust must not, after the commencement of the proposed section, call for expressions of interest in the use of those lands, or grant a lease, or licence for the use, of them, unless the Minister has consulted the Treasurer as required by the proposed section.

Proposed section 20B enables the Trust (with the consent of the Minister) to enter into an agreement as lessee, sub-lessee or licensee in respect of the upper surface, and the airspace above the upper surface, of the land bridge erected over the Eastern Distributor near the Art Gallery of New South Wales.

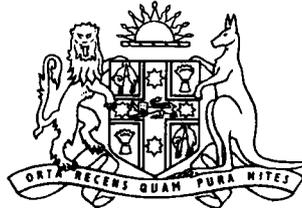
Schedule 1 [4] enables the making of savings and transitional regulations consequent on the enactment of the proposed Act.

Schedule 1 [5] repeals a clause of Schedule 3 (Transitional and other provisions) to the Act that requires the Governor’s approval of the purpose for which the fuel oil installation land may be used.

Schedule 1 [6] makes it clear that section 20 of the Act, as in force before the amendments made to that section by the proposed Act, applies to a lease, licence or easement granted by the Trust and in force immediately before the commencement of the amendments.

It also makes it clear that the new section 20A does not apply to a lease granted by the Trust and in force immediately before the commencement of that section.

First print



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New South Wales

Royal Botanic Gardens and Domain Trust Amendment Bill 1999

No. , 1999

A Bill for

An Act to amend the *Royal Botanic Gardens and Domain Trust Act 1980* in relation to the grant of leases, licences and easements; and for related purposes.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Royal Botanic Gardens and Domain Trust Amendment Act 1999</i> .	3 4
2 Commencement	5
This Act commences on a day or days to be appointed by proclamation.	6 7
3 Amendment of Royal Botanic Gardens and Domain Trust Act 1980 No 19	8 9
The <i>Royal Botanic Gardens and Domain Trust Act 1980</i> is amended as set out in Schedule 1.	10 11

Schedule 1	Amendments	1
	(Section 3)	2
[1]	Section 20 Grant of leases, licences and easements	3
	Omit section 20 (2) and (3). Insert instead:	4
	(2) The Trust may, from time to time and on such terms and conditions as are approved by the Minister, grant:	5
	(a) a lease of any part of the Trust lands, and	6
	(b) an easement through, on or in the Trust lands, and	7
	(c) a licence for the use of any part of the Trust lands,	8
	for any commercial or other purpose that is not prejudicial to the objects of the Trust.	9
	(3) Except as otherwise provided by this Act, a lease granted under subsection (2) must not be for a term that, together with the term of any further lease that may be granted on the exercise of an option contained in the lease, exceeds 8 years.	10
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[2]	Section 20 (4)	16
	Omit “subsection (2) (b)”. Insert instead “subsection (2)”.	17
[3]	Sections 20A and 20B	18
	Insert after section 20:	19
	20A Power to grant certain longer-term leases	20
	(1) A lease granted under section 20 (2) for the purpose of a restaurant or cafe may be for any term that, together with the term of any further lease that may be granted on the exercise of an option contained in the lease, does not exceed 10 years.	21
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	(2) A lease in respect of any of the following parts of the Trust lands may be granted under section 20 (2) for any term that, together with the term of any further lease that may be granted on the exercise of an option contained in the lease, does not exceed 50 years:	25
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Schedule 1 Amendments

- (a) such part of the Trust lands described in Part 2 of Schedule 2 as was, immediately before the commencement of this section, used for the purposes of, or for purposes connected with, the operation and maintenance of the car parking station known as the Domain Parking Station (including the moving footway leading to that car parking station), 1
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- (b) such part of the Trust lands described in Part 2 of Schedule 2 as, immediately before the commencement of this section, contained the fuel oil installations constructed by or on behalf of the Commonwealth, together with such other part of those lands as may be necessary for the purposes of, or for purposes connected with, the use of that land, 8
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- (c) such parts of the Trust lands described in Part 2 of Schedule 2 as were, immediately before the commencement of this section, used to support the land bridge erected, near the Art Gallery of New South Wales, over part of the road link (or the proposed road link) between the Cahill Expressway and Mill Pond Road, Botany, known as the Eastern Distributor, 15
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- (d) such parts of the Trust lands described in Part 2 of Schedule 2 as were, immediately before the commencement of this section, used for the purposes of, or for purposes connected with, the operation and maintenance of the swimming pool known as the Andrew “Boy” Charlton Pool, together with such other part of those lands as may be necessary for the purposes of, or for purposes connected with, the operation and maintenance of that pool as redeveloped as a result of the competition known as the *Andrew “Boy” Charlton Pool Architectural Competition* conducted by the Council of the City of Sydney in 1998, 22
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- (e) such parts of the Trust lands described in Part 2 of Schedule 2 as are the subject of the development consent granted by the Council of the City of Sydney in relation to Development Application No D97-00511 made by City Projects Division of The City of Sydney and dated 1 August 1997 (concerning the redevelopment of the lands known as Cook and Phillip Parks). 1
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 - (3) The Minister is to consult the Treasurer in relation to: 9
 - (a) the use to which the land referred to in subsection (2) (a) and (b) is to be put under a future lease or licence, and 10
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 - (b) the terms and conditions of any proposed lease, or licence for the use, of that land. 13
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 - (4) The Trust must not, after the commencement of this section: 15
 - (a) call for expressions of interest in the use, under a future lease or licence, of the land referred to in subsection 2 (a) or (b), or 16
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 - (b) grant a lease, or a licence for the use, of that land, 19
unless the Minister has consulted the Treasurer (as required by subsection (3)) in relation to the proposed use of the land, or the proposed lease or licence, concerned. 20
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 - (5) It is sufficient compliance with subsection (3) if the Minister: 23
 - (a) notifies the Treasurer in writing of: 24
 - (i) any proposed use of the land concerned under a future lease or licence, and 25
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 - (ii) the terms and conditions of any proposed lease, or licence for the use, of that land, and 27
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 - (b) takes into consideration any comments received from the Treasurer within 28 days after the notification is given. 29
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20B Power to accept lease or licence relating to certain land 32

The Trust may, with the consent of the Minister, from time to time enter into an agreement as lessee, sub-lessee or licensee in respect of the upper surface, and the airspace above the upper surface, of the land bridge erected, near the Art Gallery of New 33
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Royal Botanic Gardens and Domain Trust Amendment Bill 1999

Schedule 1 Amendments

South Wales, over part of the road link (or the proposed road link) between the Cahill Expressway and Mill Pond Road, Botany, known as the Eastern Distributor.	1 2 3
[4] Schedule 3 Transitional and other provisions	4
Insert at the end of clause 8 (1):	5
<i>Royal Botanic Gardens and Domain Trust Amendment Act 1999</i>	6
[5] Schedule 3, clause 12	7
Omit the clause.	8
[6] Schedule 3, clause 13	9
Insert at the end of the Schedule:	10
13 Royal Botanic Gardens and Domain Trust Amendment Act 1999 not to affect certain existing agreements	11 12
(1) Section 20, as in force before the amendments made to that section by the <i>Royal Botanic Gardens and Domain Trust Amendment Act 1999</i> , applies to a lease, licence or easement granted by the Trust and in force immediately before the commencement of those amendments.	13 14 15 16 17
(2) Section 20A, as inserted by the <i>Royal Botanic Gardens and Domain Trust Amendment Act 1999</i> , does not apply to a lease granted by the Trust and in force immediately before the commencement of that section.	18 19 20 21