

Crown Lands Amendment (Compensation) Bill 2000

Explanatory note

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

Overview of Bill

The objects of this Bill are:

- (a) to clarify the law relating to the determination of the compensation payable to certain reserve trusts under the *Crown Lands Act 1989* when trust land is compulsorily acquired by limiting the entitlement of any such reserve trust to compensation for improvements erected on the land and other incidental matters, and
- (b) to make it clear that the Crown, and not the reserve trust, is, for the purposes of determining the compensation payable in respect of those reserves, to be treated as the owner of the land, and
- (c) to enact consequential savings and transitional provisions.

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 *Crown Lands Act 1989* set out in Schedule 1.

Schedule 1 Amendments

Schedule 1 [1] inserts proposed section 106A in the *Crown Lands Act 1989*. The proposed section sets out rules for the determination of compensation payable to reserve trusts under the *Crown Lands Act 1989* when the whole or part of a reserve is compulsorily acquired. Currently, that compensation is determined in accordance with the *Land Acquisition (Just Terms Compensation) Act 1991*. If the land is acquired for the purpose of a road, at the request of an individual, compensation is determined in accordance with that Act, as referred to in section 190 of the *Roads Act 1993*. If the land is vested for pipeline purposes, or an easement for a pipeline vests over the land, compensation is also determined in accordance with that Act, as referred to in section 22A of the *Pipelines Act 1967*. The proposed section will not apply to a reserve comprising dedicated land if a Crown grant for the land was granted to the reserve trust or a predecessor in title before the commencement of the *Crown Lands (Land Titles) Amendment Act 1980* (which ended the issue of Crown grants).

The reserve trust is entitled to an amount of compensation that is to be determined by having regard to the value to the trust of any improvements (including structures) erected or carried out by the trust on the land as at the date of acquisition or vesting, any reduction in value of other improvements (including structures) erected or carried out by the trust on other land that is caused by the severance of the land being acquired or the vesting and any loss attributable to disturbance (such as legal and other expenses, other than those related to termination of leases or licences). A reserve trust that is also the acquiring authority, or is managed by the acquiring authority, may decide not to require compensation in respect of the acquisition or vesting of the land or the vesting of the easement.

The proposed section makes it clear that, for the purposes of determination of an amount of compensation, the Crown is taken to be the holder of the fee simple in the land being acquired.

Schedule 1 [2] enables regulations of a savings and transitional nature to be made as a result of the enactment of the proposed section.

Schedule 1 [3] inserts a savings provision making it clear that the proposed section does not apply to or in respect of the determination of compensation payable in respect of the land if the acquisition or vesting occurs before the commencement of the proposed section.