



New South Wales

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.

First print



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New South Wales

Crown Lands Amendment (Compensation) Bill 2000

No. , 2000

A Bill for

An Act to amend the *Crown Lands Act 1989* to clarify the compensation payable when certain reserve lands are compulsorily acquired or vested; and for other purposes.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Crown Lands Amendment (Compensation) Act 2000</i> .	3
2 Commencement	4
This Act commences on a day or days to be appointed by proclamation.	5 6
3 Amendment of Crown Lands Act 1989 No 6	7
The <i>Crown Lands Act 1989</i> is amended as set out in Schedule 1.	8

Schedule 1	Amendments	1
	(Section 3)	2
[1]	Section 106A	3
	Insert after section 106:	4
	106A Limits on compensation payable to reserve trusts	5
	(1) This section applies:	6
	(a) to the determination of the amount of compensation payable under Part 3 of the <i>Land Acquisition (Just Terms Compensation) Act 1991</i> in respect of the compulsory acquisition of the whole or part of a reserve described in subsection (2), and	7 8 9 10 11
	(b) to the determination under section 191 of the <i>Roads Act 1993</i> of the amount of compensation payable or provided under Division 2 of Part 12 of that Act in respect of the acquisition under that Division of the whole or part of a reserve described by subsection (2), and	12 13 14 15 16 17
	(c) to the determination under section 22A of the <i>Pipelines Act 1967</i> of the amount of compensation payable in respect of the vesting of the whole or part of a reserve described by subsection (2) or the vesting of an easement over the whole or part of such a reserve.	18 19 20 21 22
	(2) The following reserves are described by this subsection:	23
	(a) a reserve in respect of which a reserve trust has been constituted, whether under this Part or by operation of Schedule 8,	24 25 26
	(b) a reserve to which the provisions of this Part are applied by any other Act, or which is taken under any other Act to be a reserve under this Part, and in respect of which a reserve trust has been appointed or taken to be appointed,	27 28 29 30 31

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- other than a reserve that comprises dedicated land for which a Crown grant was granted to the reserve trust or a predecessor in title before the commencement of the *Crown Lands (Land Titles) Amendment Act 1980*. 1
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- (3) Despite section 55 of the *Land Acquisition (Just Terms Compensation) Act 1991*, in determining the amount of compensation, if any, payable to a reserve trust, regard is to be had to the following matters only (as assessed in accordance with this section): 5
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- (a) the value to the reserve trust of any improvements (including structures) erected or carried out by the trust on the land being acquired or vested, or over which the easement is vested, on the date the land is acquired, 10
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- (b) the amount of any reduction in the value to the trust, as at the date the land is acquired or vests, or the easement vests, of any other improvements (including structures) erected or carried out by the trust on other land that is caused by the land acquired being severed from other land of the trust, 14
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- (c) any loss attributable to disturbance (within the meaning of section 59 of that Act), other than loss arising from the termination of a lease or licence over the whole or part of the land being acquired. 20
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- (4) For the purposes of a determination of an amount of compensation: 24
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- (a) the Crown is taken to be the holder in fee simple of the land being acquired or vested, or over which the easement is vested, and 26
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- (b) section 56 (2) of the *Land Acquisition (Just Terms Compensation) Act 1991* applies as if the value of improvements (including structures) erected or carried out by the trust on the land is the market value of the land. 29
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- (5) A reserve trust that is, or is managed by, the authority acquiring the whole or part of a reserve is not entitled to compensation in respect of the acquisition or vesting if it decides not to require compensation and does not revoke that decision before the acquisition of the land concerned. 34
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(6) Nothing in this section affects:	1
(a) any function of the Minister with respect to a reserve trust, including the Minister's functions under sections 102 and 106, or the requirements of section 106, or	2 3 4
(b) the rights under the <i>Land Acquisition (Just Terms Compensation) Act 1991</i> of a person from whom native title rights and interests (within the meaning of that Act) in relation to land have been acquired.	5 6 7 8
[2] Schedule 8 Savings, transitional and other provisions	9
Omit clause 25 (1) and (2). Insert instead:	10
(1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts:	11 12 13
this Act	14
<i>Crown Lands (Continued Tenures) Act 1989</i>	15
<i>Western Lands (Crown Lands) Amendment Act 1989</i>	16
<i>Miscellaneous Acts (Crown Lands) Amendment Act 1989</i>	17
<i>Crown Lands Amendment (Compensation) Act 2000</i>	18
(2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later date.	19 20 21
[3] Schedule 8, Part 3	22
Insert after Part 2:	23
Part 3 Provisions consequent on Crown Lands Amendment (Compensation) Act 2000	24 25
37 Compensation for past acquisitions not affected	26
Section 106A, as inserted by the <i>Crown Lands Amendment (Compensation) Act 2000</i> , does not apply to or in respect of the determination of compensation payable:	27 28 29

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Schedule 1 Amendments

- (a) in the case of an acquisition of land, if the acquisition notice in relation to the land was published under the *Land Acquisition (Just Terms Compensation) Act 1991* before the commencement of that section, or
 - (b) in the case of the vesting of land or an easement under the *Pipelines Act 1967*, if the notification under section 21 (1) of that Act occurred before the commencement of section 106A of this Act.
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