

Second Reading

The Hon. TONY KELLY (Minister for Police, Minister for Lands, and Minister for Rural Affairs) [2.50 p.m.]: I move:

That this bill be now read a second time.

I seek leave to incorporate the second reading speech in *Hansard*.

Leave granted.

The Western Lands Amendment Bill 2008 is the culmination of a thorough review of the operation of the Western Lands Act carried out in consultation with all relevant stakeholders and interested parties.

The Western Division of New South Wales makes up over 40 per cent of the area of the State. It is that part of the State situated to the west of a line running from the Victorian border near Balranald to Mungindi in the north. It is a diverse semi-arid landscape which is typified by low average rainfall and extremely high average summer temperatures. It is sparsely populated, with few towns and cities and there are limited land use opportunities.

The majority of this Division is Crown leasehold lands administered under the Western Lands Act 1901. This legislation, which underpins the management of this Division of the State, has been amended and modernised over the years since it was first enacted. The most recent of those amendments occurred in 2002.

The amendments to the Western Lands Act in 2002 gave effect to various proposals arising from the Western Lands Review undertaken by a team led by the Hon. John Kerin between 1998 and 2000. These amendments incorporated provisions to: formally establish the road and access network as it currently exists through Western Lands leases; replace the outdated rent system as it applied at that time to leases with a more equitable rental system; introduce modern objects into the Act; facilitate the establishment of a broadly based Western Lands Advisory Council to advise on matters affecting the Western Division; and remove overly restrictive provisions and provide for greater efficiency and flexibility in dealings with, and management of, Western Lands leases.

Section 3B of the Western Lands Act, which was introduced in 2002, required the Minister administering the Act to conduct a formal review after 5 years to determine whether the policy objectives of the Act remain relevant and whether the Act's provisions remain appropriate for securing those objectives.

The statutory review of the Act has been undertaken in consultation with the Western Lands Advisory Council, which is representative of the diverse interests in the Western Division. As part of the review process, members of the Western Lands Advisory Council were encouraged to consult with individuals and organisations they represent to identify issues they wished to have included in the review. The general public were also invited to comment through advertisements in national and local newspapers.

In June 2008, the final report on the review of the Western Lands Act was tabled in both Houses of Parliament. The Western Lands Amendment Bill 2008 gives effect to the recommendations of the report. The review found that the policy objectives of the Western Lands Act remain generally valid.

The review found, however, that there is a need to amend the Western Lands Act in a number of ways, including: to enable the creation of an easement along the length of the dog proof fence which prevents wild dogs from entering New South Wales; to strengthen the boundary fencing provisions as they apply to Western Lands leases; to provide greater flexibility in the term of appointment of members to the Western Lands Advisory Council and to make provision for the appointment to the Council of a nominee of the Minister for Mineral Resources; to provide clarity that the objects of the Act include matters relating to both indigenous and non-indigenous cultural heritage and accommodate new land uses and opportunities in the Western Division; and to make further provision to effect the creation of a legal road and access network for the Western Division across all land parcels.

The bill addresses the recommendations for reform found in the review.

The dog proof fence is approximately 600 kilometres in length and is located on parts of the State borders separating New South Wales from Queensland and South Australia. This fence was originally constructed as a rabbit proof fence but now serves to prevent wild dogs, including dingoes, from entering New South Wales and killing stock and wildlife. Over \$1.5 million of landholder and public monies are spent annually in maintaining the fence. This work is coordinated by the Wild Dog Destruction Board. Whilst the fence has been in existence for many years, and the activities of the Wild Dog Destruction Board in maintaining the fence are generally covered by the Wild Dog Destruction Act, the bill proposes a power for the Minister to create an easement along the fenced portion of the New South Wales-Queensland and New South Wales-South Australia State boundaries generally up to 100 metres wide, although up to a maximum of 200 metres wide where necessary and specified in a regulation.

Within the Sturt National Park, the relevant easement or right of way may be granted by the Minister administering the National Parks and Wildlife Act 1974 subject to the terms and conditions that the Minister considers appropriate following consultation with the Minister administering the Western Lands Act 1901. The easement or right of way may be varied or revoked, again following such consultation. The intention is that the easement will be created in respect of the whole of the fenced area across all land tenures. This will guarantee access to the fence by the Board for upkeep and maintenance purposes into the future. The easement will be created in favour of the Wild Dog Destruction Board.

Because the Wild Dog Destruction Board already has a right to access the fence for maintenance and related purposes, compensation will not be payable where the land affected is leased under the Western Lands Act. Compensation will be determined in accordance with the Land Acquisition (Just Terms Compensation) Act 1991, however, where a small number of freehold land parcels are affected by the creation of the fencing easement.

The more recent introduction of exotic breeds of sheep into the Western Division has highlighted the need to strengthen the boundary fencing provisions of the Western Lands Act as they apply to Western Lands leases. If any of these breeds of sheep mix with traditional merino or other wool-producing sheep, the wool fibre is contaminated and devalued. This is an untenable situation given the robust nature of these exotic breeds, their capacity to roam and the resultant conflict which is occurring between neighbouring producers. Whilst provisions currently exist in the Western Lands Act which require lessees to fence the boundaries of their properties, the provisions do not allow for the lessee to be directed to upgrade the fence beyond the standard of fencing which applied when the lease was first granted. The bill proposes that these provisions be strengthened to enable the Western Lands Commissioner to set standards of fencing and to enforce an upgrade of a fence so as to ensure that stock are properly contained within property boundaries. These proposals were strongly supported by Western Division pastoralists and the Western Lands Advisory Council during the recent review of the Western Lands Act.

The bill will make it clear that the Western Lands Commissioner can give directions relating to the standard of fencing required to be maintained to contain stock within the boundaries of any leased land. The bill also allows the Commissioner to apportion costs of complying with a fencing order between the adjoining landholders. In some circumstances, it may be appropriate for stock to be fenced within a defined part of a leased property. Accordingly, the bill will provide the Commissioner with power to specify fencing standards within any part of the leased land.

These measures will allow fencing disputes to be resolved in a more efficient manner and will facilitate the construction of fencing appropriate to the containment of exotic breeds of sheep and other animals. The orders made by the Western Lands Commissioner under the proposed provisions will be subject to the same appeal process as currently exist for a decision of the Commissioner. There may be an appeal first to the local land board and then to the Land and Environment Court, which will operate as a rehearing of the matter.

The current membership of the Western Lands Advisory Council is considered representative of all interests in the Western Division, with the exception of mining interests. As such, the review supported an amendment which would allow for the appointment to the Council of a nominee of my colleague, the Minister for Mineral Resources. It also supported an amendment to the term of appointment of members to the Council. The current term of appointment of members is for a period of three years. This provision is somewhat limiting and provision for appointment for a term of up to three years would provide greater flexibility and continuity of the Council. The bill proposes amendments to effect these changes.

The objects of the Western lands Act are considered generally current and relevant. Accordingly, the review proposed that the objects remain unchanged except to the extent that may be necessary to accommodate new land use opportunities in the Western Division; and to clarify that the scope of the objects as they relate to the social, economic and environmental interests of the State have regard to both indigenous and non-indigenous cultural heritage. The bill will amend the objects of the Act by inserting reference to facilitating new land uses and development opportunities for land in the Western Division and the indigenous and non-indigenous cultural heritage of the Western Division.

The Western Lands Act has been amended over time to seek to address the changing needs and more contemporary requirements of the Western Division. The recent proposal to construct a large wind farm at Silverton, near Broken Hill, has highlighted a need for legislative provisions to ensure that large-scale developments, such as this wind farm, can be validly accommodated on Western Division leasehold land.

Whilst the review of the Western Lands Act identified a need to amend the Act to accommodate such developments, this proposal has already been substantially progressed through the Western and Crown Lands Amendment (Special Purpose Leases) Act 2008, which was assented to in June this year.

That Act provides that a Crown Lands Act lease in the form of a special purpose lease may be granted in the Western Division. Where the land proposed to be leased is already held under a Western Lands lease, the consent of any current lessee must be obtained prior to the grant of any special purposes lease.

The aims of the Western and Crown Lands Amendment (Special Purpose Leases) Act 2008 are facilitated by the provision in the bill that allows for a plan describing the site of a special purpose lease to be a registered plan of description under the Conveyancing Act 1919, rather than a plan of subdivision, as may otherwise be the case. There is no need for the technical requirements that apply to a plan of subdivision to apply to a plan of a special purpose lease.

A key component of the changes to the Western Lands Act in 2002 was legislative reform to facilitate the creation of a system of public roads linking cities, towns and villages and giving access to places of significant public interest, and to provide a legal means of access to land-locked properties. This was achieved by inserting provisions to enable the creation of a legal road and access network in the form of public roads and rights of way.

The 2002 amendments enable the withdrawal of any land from a Western Lands lease which is being used as a public road without compensation, and for the dedication of that land as public road, maintained by the Roads and Traffic Authority and by shire councils in the Western Division. The 2002 amendments, however, did not make provision for formally establishing existing roads where they traverse land other than Western Lands leases including freehold land, national parks, nature reserves, State forests and commons.

The Western Lands Commissioner will monitor progress in establishing the legal road network of the Western Division

using the existing mechanisms. These mechanisms include those introduced in 2002 and the power of the Minister for Lands to create public roads over freehold land by acquiring the land under Part 12 of the Roads Act 1993 and dedicating the land so acquired as a public road under part 2 of that Act. The amendments proposed in the bill set out that the option of acquisition under the roads Act is available in order to clarify that the option applies. If experience shows that there is a need for road or easement creation that cannot be met using existing powers consideration will be given to further reform.

In addition to these amendments proposed as a result of the review of the Western Lands Act, the bill proposes a number of minor amendments to the Act to simplify and modernise its provisions. These include rationalisation of the two local land board schemes under the Crown Lands Act 1989 and the Western Lands Act 1901 into a single scheme under the Crown Lands Act applying throughout the State.

The bill also proposes a number of amendments to other Acts which are consequential to, or complementary with, the amendments proposed to the Western Lands Act. Of particular significance are proposed amendments to the Conveyancing Act 1919, the Crown Lands Act 1989, the Dividing Fences Act 1991 and the National Parks and Wildlife Act 1974.

I have already discussed the amendments to the Conveyancing Act which are designed to accommodate special purpose leases introduced by the Western and Crown Lands Amendment (Special Purpose Leases) Act 2008.

The principal amendments to the Crown Lands Act 1989 will have the effect that provisions in that Act for the establishment of local land boards for each land district will apply in the Western Division. They will also define the Western Division by reference to a deposited plan recorded in the office of the Registrar General.

The amendments to the Dividing Fences Act 1991 require local land boards to have regard to certain orders under the Western Lands Act when dealing with fencing disputes, and preclude a Local Court from dealing with matters affecting land subject to a Western Lands lease otherwise than in relation to enforcement of orders.

The amendments to the National Parks and Wildlife Act 1974 will provide the power that I have already outlined for the Minister administering that Act to grant easements or rights of way in favour of the Wild Dog Destruction Board for the purpose of repair and maintenance of the dog proof fence following consultation with the Minister responsible for the Western Lands Act. This will ensure that easements may be created for this purpose along the whole of the fenced portion of the New South Wales-Queensland and New South Wales-South Australia State boundaries.

In conclusion, the amendments to the Western Lands Act proposed in the bill will make an important contribution to the modernisation of the legislative framework governing the management and use of land in the Western Division of the State. They will help to secure a sustainable and productive future for the Division and its residents.

I commend the bill to the House.