



New South Wales

Crown Lands Amendment (Multiple Land Use) Bill 2013

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 *Crown Lands Act 1989* as follows:

- (a) to provide that a secondary interest (a lease, licence, permit, easement or right-of-way) can be granted in respect of Crown land that is reserved for a public purpose (a *Crown reserve*) so long as use and occupation of the land under the secondary interest would not be likely to materially harm the use and occupation of the land for the public purpose for which it is reserved,
- (b) to authorise the Minister or a reserve trust to validate the grant of a secondary interest over a Crown reserve by making such changes to the secondary interest as may be necessary to ensure that it was validly granted,
- (c) to require notice to be given to the Minister or a reserve trust before the validity of a secondary interest over a Crown reserve can be challenged in court proceedings.

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 to the proposed Act.

Schedule 1 Amendment of Crown Lands Act 1989 No 6

Schedule 1 [2] provides that the existing power of the Minister to grant a secondary interest in respect of a Crown reserve is not limited by the reservation if the Minister is of the opinion that

use or occupation of the land under the secondary interest would not be likely to materially harm its use or occupation for the reserved purpose. The amendment also authorises the Minister to validate a secondary interest that would otherwise be invalid by making any necessary changes to the purpose or the terms and conditions of the secondary interest. Any such validation is backdated to the date on which the secondary interest was originally granted. **Schedule 1 [1] and [3]** make consequential amendments to definitions.

Schedule 1 [4] prevents a challenge to the validity of a secondary interest in a Crown reserve until the Minister has been given notice of the alleged invalidity.

Schedule 1 [5] extends the amendments made by the Bill to secondary interests granted by a reserve trust, with the functions of the Minister to be exercised by the reserve trust.

Schedule 1 [6] inserts a savings and transitional regulation-making power.

Schedule 1 [7] extends the amendments made by the Bill to existing secondary interests but not so as to affect previous court decisions and not so as to affect any Aboriginal land rights claim made before the Court of Appeal decision on the Goomallee Claim. The amendments that require prior notice of a challenge to the validity of a secondary interest do not extend to pending proceedings.