



New South Wales

Sydney Public Reserves (Public Safety) Bill 2017

Explanatory note

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

Overview of Bill

The object of this Bill is to deal with an occupation of a public reserve in the City of Sydney that interferes with the reasonable enjoyment of the rights of the public or that is unlawful and, in particular, to deal with the unauthorised camp site at Martin Place, Sydney. The Bill authorises police officers to give directions to persons occupying the public reserve that are reasonable in the circumstances to remove or remedy the interference or unlawful occupation, and authorises police officers to seize and remove tents, goods and other things for that purpose. The Bill applies to the Martin Place Reserve between Macquarie Street and George Street and to any other public reserve in the City of Sydney declared by the Governor by proclamation following a recommendation by the Minister that it is in the public interest because of the relocation of persons occupying the Martin Place Reserve or of any other occupation of a public reserve.

Outline of provisions

Part 1 Preliminary

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.

Clause 3 defines certain words and expressions used in the proposed Act. In particular:

- (a) **occupation** of a public reserve is defined to include the use of the reserve or the presence of a person in the reserve, and

- (b) *Martin Place Reserve* is defined as the public reserve in Martin Place, Sydney, between Macquarie Street and George Street (being reserve 88056 for public recreation), and
- (c) a *public reserve* is defined as a Crown reserve under the Crown land legislation or a public reserve within the meaning of the *Local Government Act 1993*, and
- (d) the *public* is defined to include any section of the public.

Part 2 Application of Act

Clause 4 applies the proposed Act to the Martin Place Reserve.

Clause 5 applies the proposed Act to any other public reserve in the City of Sydney proclaimed by the Governor on the recommendation of the Minister. The Minister may only recommend that the proposed Act be applied to another public reserve in the City if satisfied that it is in the public interest because of the relocation of persons occupying the Martin Place Reserve or of any other occupation of a public reserve.

Clause 6 provides that, unless the Minister otherwise directs, the proposed Act does not apply to a thing or person whose presence in a public reserve has been authorised by the manager of the reserve.

Part 3 Martin Place Reserve and other declared Sydney public reserves—police powers

Clause 7 authorises a police officer to give a direction to a person who is in a public reserve to which the proposed Act applies if the police officer believes on reasonable grounds that the person's occupation of the reserve materially interferes with the reasonable enjoyment of the rights of the public or is unlawful. A direction (including a move on direction) may be given only if the direction is reasonable in the circumstances for the purposes of removing or remedying the interference or unlawful occupation. The clause makes it an offence to refuse or fail to comply with a direction without reasonable excuse (maximum penalty \$220).

Clause 8 authorises a police officer to seize and remove from the Martin Place Reserve or other declared public reserve any tent, goods or other thing if the police officer believes on reasonable grounds that it is necessary or expedient for the purposes of removing or remedying the interference or unlawful occupation. Anything seized may be returned to the person from whom it was seized, disposed of in accordance with the directions of the Commissioner of Police or delivered to the council of the area concerned (and if so delivered is taken to be an article impounded in accordance with the *Impounding Act 1993*).

Clause 9 applies the standard police safeguards relating to the exercise of police powers under Part 15 of the *Law Enforcement (Powers and Responsibilities) Act 2002* to the exercise of police powers under the proposed Act.

Clause 10 deals with the giving of directions under the proposed Act to groups of persons.

Clause 11 provides that the proposed Act cannot be used to deal with an industrial dispute or with a demonstration, protest, procession or assembly that is an authorised public assembly for the purposes of Part 4 of the *Summary Offences Act 1988*.

Clause 12 provides for a code of practice to be prescribed relating to the exercise of police powers under the proposed Act and the rights of persons to whom directions are given under the proposed Act.

Part 4 Miscellaneous

Clause 13 enables penalty notices to be issued for a failure to comply with a direction under the proposed Act.

Clause 14 provides for the summary disposal of proceedings for offences by the Local Court.

Clause 15 ensures that the proposed Act is not affected by the pending repeal and replacement of the existing Crown land legislation.

Clause 16 enables the Governor to make regulations for the purposes of the proposed Act.