



New South Wales

Historic Houses Amendment (Throsby Park Historic Site) Bill 2009

Explanatory note

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

Overview of Bill

The objects of this Bill are as follows:

- (a) to revoke the reservation of the Throsby Park Historic Site (the *Site*) under the *National Parks and Wildlife Act 1974* and to vest the Site (and all assets, rights and liabilities of the Crown relating to the Site) in the Historic Houses Trust of New South Wales (the *Trust*),
- (b) to ensure that the Trust cannot sell or exchange the whole or any part of the Site except as authorised by an Act of Parliament,
- (c) to provide that a lease or licence granted by the Trust must not have a term that exceeds 99 years (including any further term that may be granted under an option in respect of the lease or licence).

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.

Schedule 1 Amendment of Historic Houses Act 1980 No 94

Schedule 1 [1] inserts proposed section 22 into the *Historic Houses Act 1980* (the *principal Act*) to revoke the reservation of the land comprising the Site and to vest that land in the Trust. The land is vested in the Trust freed and discharged from all estates, interests and encumbrances (other than certain interests under the *Mining Act 1992* or the *Petroleum (Onshore) Act 1991*). On the vesting of the Site in the Trust, all assets, rights and liabilities of the Crown relating to the Site are transferred to the Trust. Proposed Schedule 1A applies to the transfer of those assets, rights and liabilities.

Schedule 1 [2] inserts proposed Schedule 1A into the principal Act which contains 6 clauses.

Proposed clause 1 of Schedule 1A inserts a number of definitions used in that Schedule and proposed section 22.

Proposed clause 2 of Schedule 1A makes savings and transitional arrangements consequent on the transfer of the Site to the Trust.

Proposed clause 3 of Schedule 1A makes it clear that the operation of the Schedule (including the commencement of proposed section 22) is not to be regarded as a breach of contract, as giving rise to any remedy by a party to an instrument or as an event of default under any contract or other instrument.

Proposed clause 4 of Schedule 1A provides that the Trust has no power to sell or exchange the whole or any part of the Site except as authorised by an Act of Parliament, but may lease or otherwise dispose of an interest (other than the fee simple) in the Site. A lease or licence granted by the Trust must not have a term that exceeds 99 years (including any further term that may be granted under an option in respect of the lease or licence).

Proposed clause 5 of Schedule 1A provides that duty under the *Duties Act 1997* is not chargeable in respect of the transfer of the Site to the Trust.

Proposed clause 6 of Schedule 1A provides for compensation to be paid to a person (other than the State or an authority of the State) if the person is divested of an interest in the Site by operation of proposed section 22.

Schedule 1 [3] permits the regulations to contain provisions of a savings or transitional nature consequent on the enactment of the proposed Act.

First print



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Historic Houses Amendment (Throsby Park Historic Site) Bill 2009

No. , 2009

A Bill for

An Act to amend the *Historic Houses Act 1980* to revoke the reservation of the Throsby Park Historic Site under the *National Parks and Wildlife Act 1974* and to provide for the vesting of the Site in the Historic Houses Trust of New South Wales.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Historic Houses Amendment (Throsby Park Historic Site) Act 2009</i> .	3 4
2 Commencement	5
This Act commences on a day or days to be appointed by proclamation.	6

Schedule 1	Amendment of Historic Houses Act 1980	1
	No 94	2
[1] Section 22		3
	Insert after section 21:	4
22	Transfer of Throsby Park Historic Site	5
(1)	On the commencement of this section, the Throsby Park Historic Site vests in the Trust for an estate in fee simple, freed and discharged from:	6
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(a)	all trusts, obligations, estates, interests, rights of way or other easements, and	9
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(b)	any dedication, reservation, Crown grant or vesting to which the Throsby Park Historic Site was subject and any such dedication, reservation, grant or vesting is revoked.	11
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(2)	Subsection (1) does not apply to any authority, lease or licence under the <i>Mining Act 1992</i> or the <i>Petroleum (Onshore) Act 1991</i> .	14
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(3)	On the vesting of the Throsby Park Historic Site in the Trust, all assets, rights and liabilities of the Crown relating to the Site are transferred to the Trust.	16
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(4)	Schedule 1A applies to the vesting of the Throsby Park Historic Site in the Trust under this section.	19
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(5)	Words and expressions used in this section have the same meanings as they have in Schedule 1A.	21
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[2] Schedule 1A		23
	Insert after Schedule 1:	24
Schedule 1A	Throsby Park Historic Site	25
	(Section 22)	26
1	Definitions	27
	In this Schedule:	28
	<i>assets</i> means any legal or equitable estate or interest (whether present or future and whether vested or contingent and whether personal or assignable) in real or personal property of any description (including money) and includes securities, choses in action and documents.	29
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instrument means an instrument (other than this Act) that creates, modifies or extinguishes rights or liabilities (or would do so if lodged, filed or registered in accordance with any law), and includes any judgment, order or process of a court. 1
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interest has the same meaning as it has in the *Land Acquisition (Just Terms Compensation) Act 1991*. 5
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liabilities means any liabilities, debts or obligations (whether present or future and whether vested or contingent and whether personal or assignable). 7
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rights means any rights, powers, privileges or immunities (whether present or future and whether vested or contingent and whether personal or assignable). 10
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Throsby Park Historic Site means land at Moss Vale being Lot K, Filed Plan 109154, Lot 1, DP 580481 and Lot 4, DP 730956. 13
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2 Vesting of Throsby Park Historic Site 16

On the commencement of section 22, the following provisions have effect in relation to the assets, rights or liabilities transferred by that section: 17
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(a) those assets of the Crown vest in the Trust by virtue of this Schedule and without the need for any conveyance, transfer, assignment or assurance, 20
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(b) those rights and liabilities of the Crown become, by virtue of this Schedule, the rights and liabilities of the Trust, 23
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(c) all proceedings relating to those assets, rights or liabilities commenced before the transfer by or against the Crown and pending immediately before the transfer are taken to be proceedings by or against the Trust, 25
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(d) any act, matter or thing done or omitted to be done in relation to those assets, rights or liabilities before the transfer by, to or in respect of the Crown is (to the extent that the act, matter or thing has any force or effect) taken to have been done or omitted by, to or in respect of the Trust, 29
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(e) the Trust has all the entitlements and obligations of the Crown in relation to those assets, rights and liabilities that the Crown would have had but for the commencement of section 22, whether or not those entitlements and obligations were actual or potential at the time of that commencement, 35
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(f)	a reference in any Act, in any instrument made under any Act or in any document of any kind to the Crown is (to the extent to that it relates to those assets, rights or liabilities), to be read as, or as including, a reference to the Trust.	1 2 3 4
3	Operation of Schedule	5
(1)	The operation of this Schedule is not to be regarded:	6
(a)	as a breach of contract or confidence or otherwise as a civil wrong, or	7 8
(b)	as a breach of any contractual provision prohibiting, restricting or regulating the assignment or transfer of assets, rights or liabilities, or	9 10 11
(c)	as giving rise to any remedy by a party to an instrument, or as causing or permitting the termination of any instrument, because of a change in the beneficial or legal ownership of any asset, right or liability.	12 13 14 15
(2)	The operation of this Schedule is not to be regarded as an event of default under any contract or other instrument.	16 17
(3)	No attornment to the Trust by a lessee from the Crown is required as a consequence of the operation of this Schedule.	18 19
(4)	The <i>operation of this Schedule</i> includes the commencement of section 22.	20 21
4	Restrictions on disposal of Throsby Park Historic Site	22
(1)	Despite any other provision of this or any other Act, the Trust must not sell or exchange the whole or any part of the Throsby Park Historic Site or otherwise dispose of the fee simple estate in that land, except as authorised by an Act of Parliament.	23 24 25 26
(2)	The Trust may, subject to such conditions as the Trust determines, lease or otherwise dispose of an interest (other than the fee simple) in the Throsby Park Historic Site or affect or create an estate or interest in the Throsby Park Historic Site.	27 28 29 30
(3)	A lease or licence granted under this clause must not have a term that, together with the term of any further lease or licence that may be granted under an option in respect of it, exceeds 99 years.	31 32 33
5	Duties	34
	Duty under the <i>Duties Act 1997</i> is not chargeable in respect of the vesting of the Throsby Park Historic Site in the Trust, or the transfer of assets, rights or liabilities to the Trust, by section 22.	35 36 37

6 Compensation

If an interest in the Throsby Park Historic Site of a person (other than the State or an authority of the State) is divested by the operation of section 22:

- (a) compensation is payable for the divesting of that interest, and
- (b) Part 3 of the *Land Acquisition (Just Terms Compensation) Act 1991* applies as if section 22 were an acquisition notice published by the Trust under that Act.

[3] Schedule 2 Savings, transitional and other provisions

Insert at the end of clause 1 (1):

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