



New South Wales

Royal Botanic Gardens and Domain Trust Amendment Act 1999 No 71

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New South Wales

Royal Botanic Gardens and Domain Trust Amendment Act 1999 No 71

Act No 71, 1999

An Act to amend the *Royal Botanic Gardens and Domain Trust Act 1980* in relation to the grant of leases, licences and easements; and for related purposes. [Assented to 30 November 1999]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Royal Botanic Gardens and Domain Trust Amendment Act 1999*.

2 Commencement

This Act commences on a day or days to be appointed by proclamation.

3 Amendment of Royal Botanic Gardens and Domain Trust Act 1980 No 19

The *Royal Botanic Gardens and Domain Trust Act 1980* is amended as set out in Schedule 1.

Schedule 1 Amendments

(Section 3)

[1] Section 20 Grant of leases, licences and easements

Omit “not prejudicial to” from section 20 (2) (a).

Insert instead “that would directly or indirectly assist in attaining”.

[2] Section 20 (2) (c)

Insert “, or for any other purpose that would directly or indirectly assist in the attainment of its objects” after “section”.

[3] Section 20 (4)

Omit “subsection (2) (b)”. Insert instead “subsection (2)”.

[4] Sections 20A–20C

Insert after section 20:

20A Power to grant certain longer-term leases

- (1) A lease granted under section 20 (2) for the purpose of a restaurant or café may be for any term that, together with the term of any further lease that may be granted on the exercise of an option contained in the lease, does not exceed 10 years.
- (2) A lease in respect of any of the following parts of the Trust lands may be granted under section 20 (2) for any term that, together with the term of any further lease that may be granted on the exercise of an option contained in the lease, does not exceed 50 years:
 - (a) such part of the Trust lands described in Part 2 of Schedule 2 as was, immediately before the commencement of this section, used for the purposes of, or for purposes connected with, the operation and maintenance of the car parking station known as the Domain Parking Station (including the moving footway leading to that car parking station),

- (b) such part of the Trust lands described in Part 2 of Schedule 2 as, immediately before the commencement of this section, contained the fuel oil installations constructed by or on behalf of the Commonwealth, together with such other part of those lands as may be necessary for the purposes of, or for purposes connected with, the use of that land,
 - (c) such parts of the Trust lands described in Part 2 of Schedule 2 as were, immediately before the commencement of this section, used to support the land bridge erected, near the Art Gallery of New South Wales, over part of the road link (or the proposed road link) between the Cahill Expressway and Mill Pond Road, Botany, known as the Eastern Distributor,
 - (d) such parts of the Trust lands described in Part 2 of Schedule 2 as were, immediately before the commencement of this section, used for the purposes of, or for purposes connected with, the operation and maintenance of the swimming pool known as the Andrew “Boy” Charlton Pool, together with such other part of those lands as may be necessary for the purposes of, or for purposes connected with, the operation and maintenance of that pool as redeveloped as a result of the competition known as the *Andrew “Boy” Charlton Pool Architectural Competition* conducted by the Council of the City of Sydney in 1998,
 - (e) such parts of the Trust lands described in Part 2 of Schedule 2 as are the subject of the development consent granted by the Council of the City of Sydney in relation to Development Application No D97-00511 made by City Projects Division of The City of Sydney and dated 1 August 1997 (concerning the redevelopment of the lands known as Cook and Phillip Parks).
- (3) The Minister is to consult the Treasurer in relation to:
- (a) the use to which the land referred to in subsection (2) (a) and (b) is to be put under a future lease or licence, and
 - (b) the terms and conditions of any proposed lease, or licence for the use, of that land.

- (4) The Trust must not, after the commencement of this section:
- (a) call for expressions of interest in the use, under a future lease or licence, of the land referred to in subsection 2 (a) or (b), or
 - (b) grant a lease, or a licence for the use, of that land,
- unless the Minister has consulted the Treasurer (as required by subsection (3)) in relation to the proposed use of the land, or the proposed lease or licence, concerned.
- (5) Further, the Trust must not, after the commencement of this section, grant a lease of any Trust lands unless:
- (a) it has given public notice of the proposed lease in accordance with subsections (6) and (7), and
 - (b) it has considered any submissions duly made to it under subsection (8), and
 - (c) it has given to the Minister, when seeking the Minister's approval of the terms and conditions of the proposed lease, copies of any submissions objecting to the proposed lease.
- (6) The Trust must:
- (a) give public notice of a proposed lease by means of a notice published in a newspaper circulating generally in New South Wales, and
 - (b) exhibit notice of the proposed lease on the Trust lands concerned.
- (7) A notice of a proposed lease must include the following:
- (a) information sufficient to identify the Trust lands concerned,
 - (b) the purpose for which the Trust lands will be used under the proposed lease,
 - (c) the term of the proposed lease (including particulars of any options for renewal),
 - (d) the name of the person to whom it is proposed to grant the proposed lease (if known),

- (e) a statement that submissions in writing concerning the proposed lease may be made to the Trust during the period (which must be at least 28 days) specified in the notice.
- (8) Any person may make a submission in writing to the Trust during the period specified for the purpose in the notice.
- (9) It is sufficient compliance with subsection (3) if the Minister:
 - (a) notifies the Treasurer in writing of:
 - (i) any proposed use of the land concerned under a future lease or licence, and
 - (ii) the terms and conditions of any proposed lease, or licence for the use, of that land, and
 - (iii) if copies of any submissions relating to a proposed lease of that land have been given to the Minister under subsection (5) (c)—the substance of those submissions, and
 - (b) takes into consideration any comments received from the Treasurer within 28 days after the notification is given.

20B Power to accept lease or licence relating to certain land

The Trust may, with the consent of the Minister, from time to time enter into an agreement as lessee, sub-lessee or licensee in respect of the upper surface, and the airspace above the upper surface, of the land bridge erected, near the Art Gallery of New South Wales, over part of the road link (or the proposed road link) between the Cahill Expressway and Mill Pond Road, Botany, known as the Eastern Distributor.

20C Requirements relating to grant of licence or easement

- (1) No later than 3 months after the commencement of this section, the Trust must publish on the Internet site maintained by the Trust a statement that:
 - (a) outlines the criteria by which the Trust assesses proposals or requests for grants of licences for the use of, or easements through, on or in, Trust lands, and
 - (b) states that any person may, at any time, make a submission in writing to the Trust in relation to those criteria, and

- (c) specifies the number of licences and easements granted by the Trust during the immediately preceding financial year, categorised according to their purpose and impact on Trust lands and (additionally, in the case of licences) their duration.
- (2) The statement must be permanently available on the Internet and a written copy of the statement must be permanently available for inspection by the public at the offices of the Trust during ordinary business hours.
- (3) The Trust may update the statement as it sees fit, and must update it at least once in every financial year.
- (4) In updating the statement, the Trust must take into consideration any submissions received.

[5] Schedule 3 Transitional and other provisions

Insert at the end of clause 8 (1):

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[6] Schedule 3, clause 12

Omit the clause.

[7] Schedule 3, clause 13

Insert at the end of the Schedule:

13 Royal Botanic Gardens and Domain Trust Amendment Act 1999 not to affect certain existing agreements

- (1) Section 20, as in force before the amendments made to that section by the *Royal Botanic Gardens and Domain Trust Amendment Act 1999*, applies to a lease, licence or easement granted by the Trust and in force immediately before the commencement of those amendments.

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Schedule 1 Amendments

- (2) Section 20A, as inserted by the *Royal Botanic Gardens and Domain Trust Amendment Act 1999*, does not apply to a lease granted by the Trust and in force immediately before the commencement of that section.

[Minister's second reading speech made in—
Legislative Assembly on 14 September 1999
Legislative Council on 26 October 1999]

BY AUTHORITY