

[Act 1999 No 71]



New South Wales

## Royal Botanic Gardens and Domain Trust Amendment Bill 1999

### Explanatory note

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

### Overview of Bill

The objects of this Bill are to enable the Royal Botanic Gardens and Domain Trust (the Trust):

- (a) to grant leases of certain of its lands, or leases for certain purposes, for terms in excess of the 8 years to which such leases are currently limited, and
- (b) to grant easements through, on or in its lands, and licences for the use of its lands, for a wider range of purposes than it currently may, and
- (c) to 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 over the proposed Eastern Distributor near the Art Gallery of New South Wales.

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\* Amended in committee—see table at end of volume.

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## 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.

**Clause 3** is a formal provision giving effect to the amendments to the *Royal Botanic Gardens and Domain Trust Act 1980* set out in Schedule 1.

## Schedule 1 Amendments

At present, section 20 (2) of the *Royal Botanic Gardens and Domain Trust Act 1980* (the Act) allows the Trust to grant a lease of any part of the land described in Schedule 2 to the Act and any other land acquired by the Trust (collectively known as *Trust lands*) for a commercial purpose (such as a restaurant), or any other purpose, not prejudicial to the objects of the Trust. However, the Trust may grant easements through, on or in only the Trust lands described in Schedule 2 to the Act, and licences authorising entry on those lands only, and only for the purposes specified in the section. The terms and conditions of any lease, easement or licence must be approved by the Minister.

Section 20 (3) currently limits the term of a lease granted under the section to a maximum of 8 years (including the term of any further lease that may be granted on the exercise of an option contained in the lease).

**Schedule 1 [1]** repeals and re-enacts section 20 (2) and (3) to make it clear that:

- (a) the Trust may grant leases, easements and licences (on terms and conditions approved by the Minister) in relation to *any* part of the Trust lands for *any* purpose that is not prejudicial to the objects of the Trust, and
- (b) other provisions of the Act may allow leases to be granted for a term in excess of 8 years.

**Schedule 1 [2]** amends a cross-reference as a consequence of the re-enactment of section 20 (2).

**Schedule 1 [3]** inserts proposed sections 20A and 20B in the Act.

Proposed section 20A enables the Trust to grant certain leases for terms in excess of 8 years. A lease granted for the purpose of a restaurant or café may be for any term that does not exceed 10 years (including the term of any further lease that may be granted on the exercise of an option contained in the lease). A lease of the land

specified, or for the purpose specified, in proposed section 20A (2) may be granted for any term that does not exceed 50 years (including the term of any further lease that may be granted on the exercise of an option contained in the lease).

The leases for which a term of up to 50 years is envisaged relate to the following:

- (a) the Domain Parking Station and the associated moving footway (the parking station land),
- (b) the fuel oil installations previously used by the Commonwealth (the fuel oil installation land),
- (c) the land bridge erected over the proposed Eastern Distributor near the Art Gallery of New South Wales,
- (d) the Andrew “Boy” Charlton Pool,
- (e) Cook and Phillip Parks.

The proposed section requires the Minister to consult the Treasurer in relation to both the use to which the parking station land and the fuel oil installation land is to be put under a future lease or licence, and the terms and conditions of any proposed lease, or licence for the use, of those lands. The Trust must not, after the commencement of the proposed section, call for expressions of interest in the use of those lands, or grant a lease, or licence for the use, of them, unless the Minister has consulted the Treasurer as required by the proposed section.

Proposed section 20B enables the Trust (with the consent of the Minister) to 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 over the Eastern Distributor near the Art Gallery of New South Wales.

**Schedule 1 [4]** enables the making of savings and transitional regulations consequent on the enactment of the proposed Act.

**Schedule 1 [5]** repeals a clause of Schedule 3 (Transitional and other provisions) to the Act that requires the Governor’s approval of the purpose for which the fuel oil installation land may be used.

**Schedule 1 [6]** makes it clear that section 20 of the Act, as in force before the amendments made to that section by the proposed Act, applies to a lease, licence or easement granted by the Trust and in force immediately before the commencement of the amendments.

It also makes it clear that the new section 20A does not apply to a lease granted by the Trust and in force immediately before the commencement of that section.