

New South Wales

# Western and Crown Lands Amendment (Special Purpose Leases) Bill 2008

## 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 *Western Lands Act 1901* and the *Crown Lands Act 1989* so as to facilitate the granting of special purpose leases in relation to land within the Western Division of New South Wales. Special purpose leases will be able to co-exist with other tenures under those Acts in relation to the same land. In the case of land that is already the subject of some other tenure, it will only be possible to grant a special purpose lease with the consent of the holder of that tenure.

Under the amended Acts it will be possible, for example, to grant a special purpose lease to enable the establishment of a wind farm (to generate electricity) over land that is currently leased for grazing purposes. While most of the land may remain available for grazing, any particular part of it (other than the site of a dwelling-house or other significant improvement) could become the site of a windmill or other structure ancillary to a wind farm.

## 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 assent.

**Clause 3** is a formal provision that gives effect to the amendments to the *Western Lands Act 1901* set out in Schedule 1.

**Clause 4** is a formal provision that gives effect to the amendments to the *Crown Lands Act 1989* set out in Schedule 2.

**Clause 5** amends the definition of *landholder* in section 30 of the *Forestry Act 1916* so as to exclude from that definition any lessee under a special purpose lease granted under the *Crown Lands Act 1989* or the *Western Lands Act 1901* (as amended by the proposed Act). The effect of the amendment is to exclude such lessees from any entitlement to royalty for timber taken from the land under the lease.

**Clause 6** provides for the repeal of the proposed Act after all the amendments made by the proposed Act have commenced. Once the amendments have commenced the proposed Act will be spent. Section 30 of the *Interpretation Act 1987* provides that the repeal of an amending Act does not affect the amendments made by that Act.

## **Schedule 1      Amendment of Western Lands Act 1901**

### **Special purpose leases**

**Schedule 1 [4]** inserts proposed Part 9E into the Act. The new Part contains the following provisions:

#### **Proposed section 35XA**

This provision defines the expressions *designated purpose*, *development*, *development district*, *general purpose lease*, *significant improvement* and *special purpose lease* for the purposes of the proposed Part.

#### **Proposed section 35XB**

This provision enables the Minister to declare any land to be a development district for the purposes of the proposed Part. The declaration will designate the purposes for which a special purpose lease may be granted over such land, being purposes that are approved for the purposes of the proposed section. Approved purposes include the construction and operation of facilities to harness energy and convert it into electricity and such other purposes as are approved by a proclamation under proposed section 44B of the *Crown Lands Act 1989* (to be inserted by Schedule 2 [5]). Further declarations will be able to alter the district's boundaries, abolish the district or vary its designated purposes.

#### **Proposed section 35XC**

This provision enables the Minister to lease any Crown land within a development district for the purpose of enabling development for a designated purpose to be carried out on that land. In the case of land the subject of a mining lease (under the *Mining Act 1992*) or a production lease (under the *Petroleum (Onshore) Act 1991*) the granting of such a lease will require the consent of the Minister administering the Act concerned. A lease granted under the proposed section will have a maximum term of 100 years. Land the subject of a general purpose lease can be leased under the proposed section, but only with the consent of the lessee under that lease (such consent to be irrevocable and to bind successors in title). A lease granted under the

provision will be subject to the provisions of the *Crown Lands Act 1989* and not to any provisions of the *Western Lands Act 1901* other than the proposed Part.

**Proposed section 35XD**

This provision ensures that a general purpose lease is (or remains) a lease even though, as a consequence of the granting of a special purpose lease, it does not confer (or no longer confers) exclusive possession of the land over which it is granted. The provision also imputes into the general purpose lease a condition prohibiting the lessee under that lease from doing anything that has the effect of restricting or impeding the lessee under the special purpose lease from exercising the rights conferred by that lease, and a further condition prohibiting the carrying out of development for the purposes of any dwelling-house, garden or significant improvement except with the consent of the lessee under the special purpose lease (such consent not to be unreasonably withheld). The conditions imposed pursuant to this provision will flow through to any sublease of the general purpose lease.

**Proposed section 35XE**

This provision ensures that a special purpose lease is (or remains) a lease even though, as a consequence of the granting of a general purpose lease, it does not confer (or no longer confers) exclusive possession of the land over which it is granted. The provision also imputes into the special purpose lease a condition prohibiting the lessee under that lease from exercising any rights under the lease over land within the vicinity of any dwelling-house, garden or significant improvement except with the consent of the lessee under the general purpose lease (such consent to be irrevocable and to bind successors in title). The prohibition will not apply to the use of existing roads and tracks. The provision also allows the special purpose lease to include conditions agreed between the lessee under that lease and the lessee under the general purpose lease. The conditions imposed pursuant to this provision will flow through to any sublease of the special purpose lease. The agreed conditions will be enforceable between the lessees (and any sublessees) as if they were contained in a deed entered into between them.

**Miscellaneous amendments**

**Schedule 1 [1]** amends section 2A of the Act (which determines how the *Crown Lands Act 1989* is to apply to leases under the Act) so as to ensure that proposed section 35XC (6) (which determines how the *Crown Lands Act 1989* is to apply to special purpose leases) will prevail over section 2A.

**Schedule 1 [2]** omits the definition of *Crown lands* from section 3 (1) of the Act and replaces it with a new definition that states that *Crown land* is to have the same meaning as in the *Crown Lands Act 1989*. This amendment is merely law revision.

**Schedule 1 [3]** inserts proposed subsection (3) into section 3 of the Act. The new subsection states that notes in the text to the Act (such as the note at the end of proposed section 2A (5) to be inserted by Schedule 1 [1]) do not form part of the Act.

**Schedule 1 [5]** amends Schedule 2 to the Act so as to provide that, when applying the provisions of sections 34 and 34A of the *Crown Lands Act 1989* to leases under the *Western Lands Act 1901*, references in those sections to a special purpose lease extend to a special purpose lease under proposed Part 9E of the *Western Lands Act 1901*.

## **Schedule 2      Amendment of Crown Lands Act 1989**

### **Special purpose leases of land within the Western Division**

**Schedule 2 [5]** inserts proposed Division 3A into Part 4 of the Act. The new Division contains the following provisions:

#### **Proposed section 44A**

This provision defines the expressions *designated purpose*, *development*, *development district*, *general purpose lease*, *significant improvement* and *special purpose lease* for the purposes of the proposed Division.

#### **Proposed section 44B**

This provision enables the Minister to declare any land within the Western Division to be a development district for the purposes of the proposed Division. The declaration will designate the purposes for which a special purpose lease may be granted over such land, being purposes that are approved for the purposes of the proposed section. Approved purposes include the construction and operation of facilities to harness energy and convert it into electricity and such other purposes as are approved by proclamation. Further declarations will be able to alter the district's boundaries, abolish the district or vary its designated purposes.

#### **Proposed section 44C**

This provision enables the Minister to lease any Crown land within a development district for the purpose of enabling development for a designated purpose to be carried out on that land. In the case of land the subject of a mining lease (under the *Mining Act 1992*) or a production lease (under the *Petroleum (Onshore) Act 1991*) the granting of such a lease will require the consent of the Minister administering the Act concerned. A lease granted under the proposed section will have a maximum term of 100 years. Land the subject of a general purpose lease can be leased under the proposed section, but only with the consent of the lessee under that lease (such consent to be irrevocable and to bind successors in title).

#### **Proposed section 44D**

This provision ensures that a general purpose lease is (or remains) a lease even though, as a consequence of the granting of a special purpose lease, it does not confer (or no longer confers) exclusive possession of the land over which it is granted. The provision also imputes into the general purpose lease a condition prohibiting the lessee under that lease from doing anything that has the effect of restricting or impeding the lessee under the special purpose lease from exercising the rights conferred by that lease, and a further condition prohibiting the carrying out of development for the purposes of any dwelling-house, garden or significant improvement except with the consent of the lessee under the special purpose lease

(such consent not to be unreasonably withheld). The conditions imposed pursuant to this provision will flow through to any sublease of the general purpose lease.

**Proposed section 44E**

This provision ensures that a special purpose lease is (or remains) a lease even though, as a consequence of the granting of a general purpose lease, it does not confer (or no longer confers) exclusive possession of the land over which it is granted. The provision also imputes into the special purpose lease a condition prohibiting the lessee under that lease from exercising any rights under the lease over land within the vicinity of any dwelling-house, garden or significant improvement except with the consent of the lessee under the general purpose lease (such consent to be irrevocable and to bind successors in title). The prohibition will not apply to the use of existing roads and tracks. The provision also allows the special purpose lease to include conditions agreed between the lessee under that lease and the lessee under the general purpose lease. The conditions imposed pursuant to this provision will flow through to any sublease of the special purpose lease. The agreed conditions will be enforceable between the lessees (and any sublessees) as if they were contained in a deed entered into between them.

**Miscellaneous amendments**

**Schedule 2 [1]** inserts a definition of *land district* into section 3 (1) of the Act. The definition includes not only the land districts currently referred to in section 8 of the Act, but also any development districts in the Western Division that are established under proposed Division 3A of Part 4 of the Act (to be inserted by Schedule 2 [5]) or under proposed Part 9E of the *Western Lands Act 1901* (to be inserted by Schedule 1 [4]). The effect of this amendment is to enable land boards to be constituted for the development districts. These land boards will have a role in dealing with disputes that arise in relation to special purpose leases granted in respect of land within those districts.

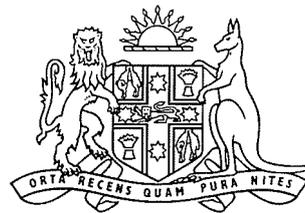
**Schedule 2 [2]** inserts proposed subsection (7) into section 34 of the Act. The new subsection provides that Crown land the subject of a special purpose lease (within the meaning of proposed Division 3A of Part 4) may be leased under that section, but only if the granting of a lease under that section is authorised by, and complies with, the terms of the special purpose lease.

**Schedule 2 [3]** amends section 34A (6) (a) of the Act so as to apply proposed Division 3A of Part 4 to leases granted under section 34A.

**Schedule 2 [4]** inserts proposed subsection (9) into section 34A of the Act. The new subsection provides that a Crown reserve the subject of a special purpose lease (within the meaning of proposed Division 3A of Part 4) may be leased under that section, but only if the granting of a lease under that section is authorised by, and complies with, the terms of the special purpose lease.



First print



New South Wales

# Western and Crown Lands Amendment (Special Purpose Leases) Bill 2008

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New South Wales

# Western and Crown Lands Amendment (Special Purpose Leases) Bill 2008

No. , 2008

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## A Bill for

An Act to amend the *Western Lands Act 1901* and the *Crown Lands Act 1989* with respect to the establishment of development districts and the granting of special purpose leases in the Western Division; and for other purposes.

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<b>The Legislature of New South Wales enacts:</b>	1
<b>1 Name of Act</b>	2
This Act is the <i>Western and Crown Lands Amendment (Special Purpose Leases) Act 2008</i> .	3 4
<b>2 Commencement</b>	5
This Act commences on the date of assent to this Act.	6
<b>3 Amendment of Western Lands Act 1901 No 70</b>	7
The <i>Western Lands Act 1901</i> is amended as set out in Schedule 1.	8
<b>4 Amendment of Crown Lands Act 1989 No 6</b>	9
The <i>Crown Lands Act 1989</i> is amended as set out in Schedule 2.	10
<b>5 Amendment of Forestry Act 1916 No 55</b>	11
The <i>Forestry Act 1916</i> is amended by inserting after the words “Second Schedule” in paragraph (a) of the definition of <i>landholder</i> in section 30 the words “(not being a special purpose lease within the meaning of Division 3A of Part 4 of the <i>Crown Lands Act 1989</i> or Part 9E of the <i>Western Lands Act 1901</i> )”.	12 13 14 15 16
<b>6 Repeal of Act</b>	17
(1) This Act is repealed on the day following the day on which this Act commences.	18 19
(2) The repeal of this Act does not, because of the operation of section 30 of the <i>Interpretation Act 1987</i> , affect any amendment made by this Act.	20 21

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<b>Schedule 1</b>	<b>Amendment of Western Lands Act 1901</b>	1
	(Section 3)	2
<b>[1]</b>	<b>Section 2A Application of Crown Lands Act 1989</b>	3
	Insert after section 2A (4):	4
	(5) This section is subject to section 35XC (6).	5
	<b>Note.</b> That subsection provides that a lease granted under section 35XC (a <b>special purpose lease</b> ) is subject to the provisions of the <i>Crown Lands Act 1989</i> and is not subject to any provision of this Act (other than Part 9E).	6 7 8 9
<b>[2]</b>	<b>Section 3 Definitions</b>	10
	Omit the definition of <b>Crown lands</b> from section 3 (1). Insert instead:	11
	<b>Crown land</b> has the same meaning as in the <i>Crown Lands Act 1989</i> .	12 13
<b>[3]</b>	<b>Section 3 (3)</b>	14
	Insert after section 3 (2):	15
	(3) Notes included in this Act do not form part of this Act.	16
<b>[4]</b>	<b>Part 9E</b>	17
	Insert after Part 9D:	18
	<b>Part 9E Development districts and special purpose leases</b>	19 20
<b>35XA</b>	<b>Definitions</b>	21
	In this Part:	22
	<b>designated purpose</b> , in relation to a development district, means a purpose designated for the district under section 35XB as a purpose for which a special purpose lease may be granted over land in that district.	23 24 25 26
	<b>development</b> has the same meaning as in the <i>Environmental Planning and Assessment Act 1979</i> .	27 28
	<b>development district</b> means land the subject of a declaration under section 35XB.	29 30
	<b>general purpose lease</b> means any lease, other than a special purpose lease, to which the provisions of this Act apply.	31 32

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	<i>significant improvement</i> means any substantial building, dam, reservoir, contour bank, graded bank, levee, water disposal area, tree plantation, soil conservation work or other valuable work or structure.	1 2 3 4
	<i>special purpose lease</i> means a lease granted under section 35XC.	5
<b>35XB</b>	<b>Development districts</b>	6
(1)	The Minister may, by notification in the Gazette, declare any land to be a development district for the purposes of this Part.	7 8
(2)	Such a declaration must designate the purposes for which a special purpose lease may be granted over land in the development district established by the declaration.	9 10 11
(3)	A purpose may not be designated under subsection (2) unless it is an approved purpose.	12 13
(4)	The following purposes are approved for the purposes of subsection (3):	14 15
	(a) the construction and operation of facilities for the harnessing of energy from any source (including the sun or wind) and its conversion into electrical energy,	16 17 18
	(b) such other purposes as may be approved by a proclamation under section 44B (4) (b) of the <i>Crown Lands Act 1989</i> .	19 20
(5)	The Minister may, by notification in the Gazette, alter the boundaries of, or abolish, any development district or, subject to subsections (3) and (4), vary the designated purposes for the district.	21 22 23 24
(6)	A special purpose lease is not affected merely because the whole or any part of the land over which it is granted ceases to be in a development district as a result of a notification referred to in subsection (5).	25 26 27 28
<b>35XC</b>	<b>Minister may grant special purpose leases</b>	29
(1)	The Minister may, in accordance with section 34 or 34A of the <i>Crown Lands Act 1989</i> , lease any Crown land within a development district for the purpose of enabling development for a designated purpose to be carried out on that land.	30 31 32 33
(2)	Despite subsection (1), a lease may not be granted under this section in respect of any land the subject of:	34 35
	(a) a mining lease under the <i>Mining Act 1992</i> , or	36

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(b) a production lease under the <i>Petroleum (Onshore) Act 1991</i> ,	1
<i>1991</i> ,	2
except with the consent of the Minister administering the Act concerned.	3
(3) The maximum term for which a lease may be granted under this section (including the period of any option to renew) is 100 years.	4
(4) Crown land that is the subject of a general purpose lease may be leased under this section, but only with the written consent of the lessee under the general purpose lease.	5
(5) A written consent given for the purposes of subsection (4) by the lessee under a general purpose lease is irrevocable and binds each successor in title to the land the subject of that lease.	6
(6) A lease granted under this section is subject to the provisions of the <i>Crown Lands Act 1989</i> and is not subject to any provision of this Act (other than this Part).	7
(8) A lease granted under this section is subject to the provisions of the <i>Crown Lands Act 1989</i> and is not subject to any provision of this Act (other than this Part).	8
(9) A lease granted under this section is subject to the provisions of the <i>Crown Lands Act 1989</i> and is not subject to any provision of this Act (other than this Part).	9
(10) A lease granted under this section is subject to the provisions of the <i>Crown Lands Act 1989</i> and is not subject to any provision of this Act (other than this Part).	10
(11) A lease granted under this section is subject to the provisions of the <i>Crown Lands Act 1989</i> and is not subject to any provision of this Act (other than this Part).	11
(12) A lease granted under this section is subject to the provisions of the <i>Crown Lands Act 1989</i> and is not subject to any provision of this Act (other than this Part).	12
(13) A lease granted under this section is subject to the provisions of the <i>Crown Lands Act 1989</i> and is not subject to any provision of this Act (other than this Part).	13
(14) A lease granted under this section is subject to the provisions of the <i>Crown Lands Act 1989</i> and is not subject to any provision of this Act (other than this Part).	14
(15) A lease granted under this section is subject to the provisions of the <i>Crown Lands Act 1989</i> and is not subject to any provision of this Act (other than this Part).	15
<b>35XD Provisions applicable to general purpose lease over land subject to special purpose lease</b>	16
(1) The following provisions apply to a general purpose lease over land the subject of a special purpose lease, regardless of the order in which those leases were granted:	17
(a) the general purpose lease is (or remains) a lease even though it does not confer (or no longer confers) exclusive possession on the lessee under that lease,	18
(b) the general purpose lease is taken to include a condition prohibiting the lessee under that lease from doing anything that has the effect of restricting or impeding the lessee under the special purpose lease from exercising the rights conferred by that lease,	19
(c) the general purpose lease is taken to include a further condition:	20
(i) prohibiting the lessee under that lease from carrying out development for the purposes of any dwelling-house, garden or significant improvement on any land to which both leases apply except with the written consent of the lessee under the special purpose lease, and	21
(ii) prohibiting the lessee under the special purpose lease from unreasonably withholding any such consent.	22
(i) prohibiting the lessee under that lease from carrying out development for the purposes of any dwelling-house, garden or significant improvement on any land to which both leases apply except with the written consent of the lessee under the special purpose lease, and	23
(ii) prohibiting the lessee under the special purpose lease from unreasonably withholding any such consent.	24
(i) prohibiting the lessee under that lease from carrying out development for the purposes of any dwelling-house, garden or significant improvement on any land to which both leases apply except with the written consent of the lessee under the special purpose lease, and	25
(ii) prohibiting the lessee under the special purpose lease from unreasonably withholding any such consent.	26
(i) prohibiting the lessee under that lease from carrying out development for the purposes of any dwelling-house, garden or significant improvement on any land to which both leases apply except with the written consent of the lessee under the special purpose lease, and	27
(ii) prohibiting the lessee under the special purpose lease from unreasonably withholding any such consent.	28
(i) prohibiting the lessee under that lease from carrying out development for the purposes of any dwelling-house, garden or significant improvement on any land to which both leases apply except with the written consent of the lessee under the special purpose lease, and	29
(ii) prohibiting the lessee under the special purpose lease from unreasonably withholding any such consent.	30
(i) prohibiting the lessee under that lease from carrying out development for the purposes of any dwelling-house, garden or significant improvement on any land to which both leases apply except with the written consent of the lessee under the special purpose lease, and	31
(ii) prohibiting the lessee under the special purpose lease from unreasonably withholding any such consent.	32
(i) prohibiting the lessee under that lease from carrying out development for the purposes of any dwelling-house, garden or significant improvement on any land to which both leases apply except with the written consent of the lessee under the special purpose lease, and	33
(ii) prohibiting the lessee under the special purpose lease from unreasonably withholding any such consent.	34
(i) prohibiting the lessee under that lease from carrying out development for the purposes of any dwelling-house, garden or significant improvement on any land to which both leases apply except with the written consent of the lessee under the special purpose lease, and	35
(ii) prohibiting the lessee under the special purpose lease from unreasonably withholding any such consent.	36
(i) prohibiting the lessee under that lease from carrying out development for the purposes of any dwelling-house, garden or significant improvement on any land to which both leases apply except with the written consent of the lessee under the special purpose lease, and	37
(ii) prohibiting the lessee under the special purpose lease from unreasonably withholding any such consent.	38
(i) prohibiting the lessee under that lease from carrying out development for the purposes of any dwelling-house, garden or significant improvement on any land to which both leases apply except with the written consent of the lessee under the special purpose lease, and	39
(ii) prohibiting the lessee under the special purpose lease from unreasonably withholding any such consent.	40

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(2)	Any sublease of a general purpose lease is taken to include the conditions that, pursuant to this section, are taken to be included in the general purpose lease.	1 2 3
<b>35XE</b>	<b>Provisions applicable to special purpose lease over land subject to general purpose lease</b>	4 5
(1)	The following provisions apply to a special purpose lease over land the subject of a general purpose lease, regardless of the order in which those leases were granted:	6 7 8
(a)	the special purpose lease is (or remains) a lease even though it does not confer (or no longer confers) exclusive possession on the lessee under that lease,	9 10 11
(b)	the special purpose lease is taken to include a condition prohibiting the lessee under that lease from exercising any of the rights conferred by that lease over any part of the land held under the general purpose lease:	12 13 14 15
(i)	on which, or within 200 metres of which, is situated any dwelling-house, or	16 17
(ii)	on which, or within 50 metres of which, is situated any garden, or	18 19
(iii)	on which is situated any significant improvement, except with the written consent of the lessee under the general purpose lease.	20 21 22
(2)	A written consent given for the purposes of subsection (1) (b) by the lessee under a general purpose lease is irrevocable and binds each successor in title to the land the subject of that lease.	23 24 25
(3)	The provisions of subsection (1) (b) (i) and (ii) do not prevent the lessee under the special purpose lease from travelling along any road or track that is within 200 metres or 50 metres, respectively, of a dwelling-house or garden referred to in those subparagraphs.	26 27 28 29
(4)	A special purpose lease over land the subject of a general purpose lease may include conditions agreed to between each of the lessees under those leases.	30 31 32
(5)	Any sublease of a special purpose lease is taken to include the conditions that, pursuant to this section, are included, or taken to be included, in the special purpose lease.	33 34 35
(6)	Any condition of the kind referred to in subsection (4):	36
(a)	that is included in a special purpose lease over land the subject of a general purpose lease, or	37 38

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(b) that, pursuant to subsection (5), is taken to be included in a sublease of a special purpose lease over land the subject of a general purpose lease,  
is enforceable, as between the lessees and sublessees for the time being under those leases, as if it were contained in a deed entered into between them.

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**[5] Schedule 2 Applicable provisions of the Crown Lands Act 1989**

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Insert at the end of the matter relating to Division 1 of Part 4:

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The references in sections 34 (7) and 34A (9) to a special purpose lease are taken to extend to a special purpose lease within the meaning of Part 9E of the *Western Lands Act 1901*.

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<b>Schedule 2</b>	<b>Amendment of Crown Lands Act 1989</b>	1
	(Section 4)	2
<b>[1] Section 3 Definitions</b>		3
Insert in alphabetical order in section 3 (1):		4
	<i>land district</i> means a land district referred to in section 8 (1), or established under section 8 (1A) or (2), and includes land within the Western Division that is:	5
	(a) a development district within the meaning of Division 3A of Part 4 of this Act, and	6
	(b) a development district within the meaning of Part 9E of the <i>Western Lands Act 1901</i> .	7
<b>[2] Section 34 Powers of Minister in relation to Crown land</b>		8
Insert after section 34 (6):		9
	(7) Crown land the subject of a special purpose lease within the meaning of Division 3A may be leased under this section, but only if the granting of a lease under this section is authorised by, and complies with, the terms of the special purpose lease.	10
<b>[3] Section 34A Special provisions relating to Minister's powers over Crown reserves</b>		11
Omit "Division 3" from section 34A (6) (a).		12
Insert instead "Divisions 3 and 3A".		13
<b>[4] Section 34A (9)</b>		14
Insert after section 34A (8):		15
	(9) A Crown reserve the subject of a special purpose lease within the meaning of Division 3A may be leased under this section, but only if the granting of a lease under this section is authorised by, and complies with, the terms of the special purpose lease.	16
<b>[5] Part 4, Division 3A</b>		17
Insert after Division 3 of Part 4:		18
	<b>Division 3A Development districts in the Western Division and special purpose leases</b>	19
	<b>44A Definitions</b>	20
	In this Division:	21

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<i>designated purpose</i> , in relation to a development district, means a purpose designated for the district under section 44B as a purpose for which a special purpose lease may be granted over land in that district.	1 2 3 4
<i>development</i> has the same meaning as in the <i>Environmental Planning and Assessment Act 1979</i> .	5 6
<i>development district</i> means land the subject of a declaration under section 44B.	7 8
<i>general purpose lease</i> means any lease, other than a special purpose lease, granted under this Act or under the <i>Crown Lands (Continued Tenures) Act 1989</i> , and includes an incomplete purchase under the <i>Crown Lands (Continued Tenures) Act 1989</i> .	9 10 11 12
<i>significant improvement</i> means any substantial building, dam, reservoir, contour bank, graded bank, levee, water disposal area, tree plantation, soil conservation work or other valuable work or structure.	13 14 15 16
<i>special purpose lease</i> means a lease granted under section 44C.	17
<b>44B Development districts</b>	18
(1) The Minister may, by notification in the Gazette, declare any land within the Western Division to be a development district for the purposes of this Division.	19 20 21
(2) Such a declaration must designate the purposes for which a special purpose lease may be granted over land in the development district established by the declaration.	22 23 24
(3) A purpose may not be designated under subsection (2) unless it is an approved purpose.	25 26
(4) The following purposes are approved for the purposes of subsection (3):	27 28
(a) the construction and operation of facilities for the harnessing of energy from any source (including the sun or wind) and its conversion into electrical energy,	29 30 31
(b) such other purposes as may be approved by proclamation on the recommendation of the Minister.	32 33
(5) A recommendation for such a proclamation may not be made unless the Minister has consulted with the Minister administering the <i>Environmental Planning and Assessment Act 1979</i> as to the terms of the recommendation, but a proclamation is not invalid merely because this requirement is not complied with.	34 35 36 37 38

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(6)	The Minister may, by notification in the Gazette, alter the boundaries of, or abolish, any development district or, subject to subsections (3) and (4), vary the designated purposes for the district.	1 2 3 4
(7)	A special purpose lease is not affected merely because the whole or any part of the land over which it is granted ceases to be in a development district as a result of a notification referred to in subsection (6).	5 6 7 8
<b>44C</b>	<b>Minister may grant special purpose leases</b>	9
(1)	The Minister may, in accordance with section 34 or 34A, lease any Crown land within a development district for the purpose of enabling development for a designated purpose to be carried out on that land.	10 11 12 13
(2)	Despite subsection (1), a lease may not be granted under this section in respect of any land the subject of:	14 15
	(a) a mining lease under the <i>Mining Act 1992</i> , or	16
	(b) a production lease under the <i>Petroleum (Onshore) Act 1991</i> ,	17 18
	except with the consent of the Minister administering the Act concerned.	19 20
(3)	The maximum term for which a lease may be granted under this section (including the period of any option to renew) is 100 years.	21 22
(4)	Crown land that is the subject of a general purpose lease may be leased under this section, but only with the written consent of the lessee under the general purpose lease.	23 24 25
(5)	A written consent given for the purposes of subsection (4) by the lessee under a general purpose lease is irrevocable and binds each successor in title to the land the subject of that lease.	26 27 28
<b>44D</b>	<b>Provisions applicable to general purpose lease over land subject to special purpose lease</b>	29 30
(1)	The following provisions apply to a general purpose lease over land the subject of a special purpose lease, regardless of the order in which those leases were granted:	31 32 33
	(a) the general purpose lease (not being an incomplete purchase under the <i>Crown Lands (Continued Tenures) Act 1989</i> ) is (or remains) a lease even though it does not confer (or no longer confers) exclusive possession on the lessee under that lease,	34 35 36 37 38

(b)	the general purpose lease is taken to include a condition prohibiting the lessee under that lease from doing anything that has the effect of restricting or impeding the lessee under the special purpose lease from exercising the rights conferred by that lease,	1 2 3 4 5
(c)	the general purpose lease is taken to include a further condition:	6 7
(i)	prohibiting the lessee under that lease from carrying out development for the purposes of any dwelling-house, garden or significant improvement on any land to which both leases apply except with the written consent of the lessee under the special purpose lease, and	8 9 10 11 12 13
(ii)	prohibiting the lessee under the special purpose lease from unreasonably withholding any such consent.	14 15 16
(2)	Any sublease of a general purpose lease is taken to include the conditions that, pursuant to this section, are taken to be included in the general purpose lease.	17 18 19
<b>44E</b>	<b>Provisions applicable to special purpose lease over land subject to general purpose lease</b>	20 21
(1)	The following provisions apply to a special purpose lease over land the subject of a general purpose lease, regardless of the order in which those leases were granted:	22 23 24
(a)	the special purpose lease is (or remains) a lease even though it does not confer (or no longer confers) exclusive possession on the lessee under that lease,	25 26 27
(b)	the special purpose lease is taken to include a condition prohibiting the lessee under that lease from exercising any of the rights conferred by that lease over any part of the land held under the general purpose lease:	28 29 30 31
(i)	on which, or within 200 metres of which, is situated any dwelling-house, or	32 33
(ii)	on which, or within 50 metres of which, is situated any garden, or	34 35
(iii)	on which is situated any significant improvement, except with the written consent of the lessee under the general purpose lease.	36 37 38
(2)	A written consent given for the purposes of subsection (1) (b) by the lessee under a general purpose lease is irrevocable and binds each successor in title to the land the subject of that lease.	39 40 41

- (3) The provisions of subsection (1) (b) (i) and (ii) do not prevent the lessee under the special purpose lease from travelling along any road or track that is within 200 metres or 50 metres, respectively, of a dwelling-house or garden referred to in those subparagraphs. 1  
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- (4) A special purpose lease over land the subject of a general purpose lease may include conditions agreed to between each of the lessees under those leases. 5  
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- (5) Any sublease of a special purpose lease is taken to include the conditions that, pursuant to this section, are included, or taken to be included, in the special purpose lease. 8  
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- (6) Any condition of the kind referred to in subsection (4): 11
- (a) that is included in a special purpose lease over land the subject of a general purpose lease, or 12  
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- (b) that, pursuant to subsection (5), is taken to be included in a sublease of a special purpose lease over land the subject of a general purpose lease, 14  
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- is enforceable, as between the lessees and sublessees for the time being under those leases, as if it were contained in a deed entered into between them. 17  
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