



New South Wales

# State Emergency and Rescue Management Amendment (Botany Emergency Works) 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 *State Emergency and Rescue Management Act 1989* to make special provision for the carrying out of emergency works at a site in Botany Road, Alexandria.

## 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 the date of assent to the proposed Act.

**Clause 3** is a formal provision that gives effect to the amendments to the *State Emergency and Rescue Management Act 1989* (the *principal Act*) set out in Schedule 1.

**Clause 4** 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 and 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      Amendments**

**Schedule 1 [2]** inserts proposed Part 6 (proposed clauses 10–13) into Schedule 4 to the principal Act.

Proposed clause 10 sets out relevant definitions.

Proposed clause 11 authorises and requires the Director-General of the Department of Commerce to carry out certain emergency works, including the shoring up of retaining or other walls and other stabilisation work, at a site in Alexandria bounded by and including Botany Road, McEvoy Street, Retreat Street and Wyndham Street.

Proposed clause 12 provides for relevant persons to have access to the site and applies relevant provisions of the principal Act relating to access and the carrying out of works in the case of emergencies.

Proposed clause 13 provides for the costs of carrying out the emergency works to be borne by BBB Constructions Pty Ltd, which is the owner of the site.

Proposed clause 14 enables the Director-General to obtain plans, drawings and other documents relating to works on the site.

**Schedule 1 [1]** enables regulations of a savings and transitional nature to be made consequent on the enactment of the proposed Act.



New South Wales

# State Emergency and Rescue Management Amendment (Botany Emergency Works) Bill 2008

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New South Wales

# **State Emergency and Rescue Management Amendment (Botany Emergency Works) Bill 2008**

No. , 2008

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## **A Bill for**

An Act to amend the *State Emergency and Rescue Management Act 1989* to make special provision for the carrying out of emergency works at a site in Botany Road, Alexandria; 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>State Emergency and Rescue Management Amendment (Botany Emergency Works) 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 State Emergency and Rescue Management Act 1989 No 165</b>	7 8
The <i>State Emergency and Rescue Management Act 1989</i> is amended as set out in Schedule 1.	9 10
<b>4 Repeal of Act</b>	11
(1) This Act is repealed on the day following the day on which this Act commences.	12 13
(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.	14 15

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<b>Schedule 1</b>	<b>Amendments</b>	1
	(Section 3)	2
<b>[1]</b>	<b>Schedule 4 Savings, transitional and other provisions</b>	3
	Insert at the end of clause 1 (1):	4
	<i>State Emergency and Rescue Management Amendment (Botany Emergency Works) Act 2008</i>	5 6
<b>[2]</b>	<b>Schedule 4, Part 6</b>	7
	Insert after Part 5:	8
<b>Part 6</b>	<b>Special provisions relating to emergency works at Botany site</b>	9 10
<b>10</b>	<b>Definitions</b>	11
	In this Part:	12
	<b>BBB Constructions</b> means BBB Constructions Pty Ltd ACN 119 554 700.	13 14
	<b>Botany site</b> means the area bounded by and including Botany Road, McEvoy Street, Retreat Street and Wyndham Street, Alexandria.	15 16 17
	<b>Director-General</b> means the Director-General of the Department of Commerce.	18 19
	<b>emergency works</b> means the carrying out of the following works on the Botany site:	20 21
	(a) the shoring up (including re-anchoring) of retaining or other walls that support premises or roads in the Botany site,	22 23 24
	(b) if the Director-General considers it necessary to do so, grouting behind the walls to reseal them against the ingress of water,	25 26 27
	(c) other stabilisation work on the site (including the construction and progressive removal of an earth berm and any stabilisation work required as a result of the collapse of any such wall),	28 29 30 31
	and includes any preparatory examination, survey, excavation or other thing done for the purposes of carrying out those works.	32 33
	<b>senior police officer</b> means a police officer of or above the rank of sergeant.	34 35

	<i>the contractors</i> means the persons engaged by the Director-General to carry out the emergency works.	1 2
<b>11</b>	<b>Carrying out of the emergency works</b>	3
	(1) The emergency works are authorised and required to be carried out by the Director-General.	4 5
	(2) The Director-General may engage persons to carry out the emergency works.	6 7
	(3) The contractors may include a person who is the owner or occupier of land in the Botany site or who has been engaged by any such owner or occupier to do work on the site.	8 9 10
<b>12</b>	<b>Access to site to carry out works etc</b>	11
	(1) The Director-General, the contractors, police officers and any other persons authorised by the Director-General or a senior police officer may enter the Botany site for the purposes of carrying out (or supervising or assisting in the carrying out) of the emergency works.	12 13 14 15 16
	(2) Notice of intention to enter the Botany site is not required to be given to anyone.	17 18
	(3) Sections 61C–61E of this Act apply to any such entry in the same way as they apply to entry under section 61 of this Act.	19 20
	(4) Section 62A of this Act extends to the exercise in good faith of functions under this Part by the Director-General, the contractors and others, and so applies as if the happening that constitutes the emergency were the happening that caused the damage that requires the carrying out of the emergency works.	21 22 23 24 25
<b>13</b>	<b>Costs of carrying out the emergency works</b>	26
	(1) The costs of carrying out the emergency works under this Part (including any costs incurred before the commencement of this clause) are to be borne by BBB Constructions, and may be recovered in a court of competent jurisdiction.	27 28 29 30
	(2) This clause does not affect any proceedings that may be taken by BBB Constructions or anyone else against any person who may be liable for causing the damage required to be rectified by the emergency works (or for causing the liability of BBB Constructions under this clause) or who has agreed to indemnify or insure a person against liability for any such damage or liability.	31 32 33 34 35 36 37



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<b>14</b>	<b>Access to plans, drawings or other documents relating to Botany site</b>	1 2
(1)	The Director-General may request BBB Constructions, or a person who has been engaged by BBB Constructions to carry out work on the Botany site, to provide the Director-General with such plans, drawings or other documents relating to the site and the work carried out (or to be carried out) on the site:	3 4 5 6 7
(a)	that are in the possession of BBB Constructions or the person, and	8 9
(b)	that the Director-General requires for the purposes of carrying out the emergency works.	10 11
(2)	A person requested to provide any such document must comply with the request within such time as the Director-General specifies in the request.	12 13 14
	Maximum penalty: 50 penalty units.	15