



New South Wales

# Transport Administration Amendment (Rail Trails) Bill 2009

## 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 *Transport Administration Act 1988* as follows:

- (a) to allow the Minister for Transport to authorise, on a case by case basis and following public consultation, the closure of a disused railway line (so that a special Act of Parliament is no longer required to authorise closure),
- (b) to allow railway tracks and other works relating to a railway line to be sold or disposed of without necessitating a closure of the railway line concerned,
- (c) to allow the Minister for Transport to enter into an arrangement with the Minister for Lands for the management of a disused railway line as Crown land under the *Crown Lands Act 1989*, without necessitating a closure of the railway line concerned.

## 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.

## **Schedule 1      Amendment of Transport Administration Act 1988 No 109**

At present, section 99A of the *Transport Administration Act 1988* prevents a rail infrastructure owner from closing a railway line unless authorised by an Act of Parliament. A railway line is closed if the land concerned is sold or otherwise disposed of, or the railway tracks and other works concerned are removed.

**Schedule 1 [1]** repeals section 99A. Section 99A is replaced by new provisions relating to closure inserted by **Schedule 1 [2]**. The new provisions largely restate the existing provisions of section 99A, subject to the changes that are explained below. **Schedule 1 [5]** enables savings and transitional regulations to be made as a consequence of the changes.

### **Closure of railway lines on case by case basis**

The new provisions allow the Minister for Transport to authorise the closure of a disused railway line on a case by case basis, following public consultation. A special Act of Parliament will no longer be required.

A disused railway line is a railway line, or a part of a railway line, declared by the Minister, by order published in the Gazette, to be a disused railway line.

The Minister may authorise the closure of a disused railway line only after giving public notice of the proposal to close the railway line. The notice must invite submissions from the public in relation to the proposal. The Minister must have regard to submissions received during the submission period in deciding whether or not to authorise the closure of the railway line concerned.

### **Sale or other disposal of railway tracks and other works (without closure)**

The new provisions allow a rail infrastructure owner to sell or otherwise dispose of railway tracks and other works used in connection with a railway line. This will no longer be regarded as a closure of the railway line concerned. However, the sale or other disposal of the land concerned will continue to require the authorisation of the Minister for Transport as referred to above.

### **Management of disused railway line as Crown land (without closure)**

The new provisions allow the Minister for Transport to enter into an arrangement with the Minister for Lands for the management of a disused railway line as Crown land. For the purposes of the arrangement, the Minister for Transport may direct that any assets, rights or liabilities of a rail authority, or a subsidiary of a rail authority, relating to a disused railway line be transferred to the Lands Administration Ministerial Corporation. This type of arrangement is not a closure of the railway line.

When land is transferred to the Lands Administration Ministerial Corporation under such an arrangement it becomes Crown land under the *Crown Lands Act 1989*. The land can be dedicated or reserved or otherwise dealt with as authorised by the *Crown*

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*Lands Act 1989*, subject to certain restrictions. In particular, the land cannot be sold, exchanged or otherwise disposed of.

The new provisions allow the Minister to terminate an arrangement for the management of a disused railway line as Crown land if satisfied that the land concerned is required for transport purposes under the *Transport Administration Act 1988*. In such a case, the Minister may direct that any assets, rights or liabilities of the Crown relating to the land be transferred to a rail authority or a subsidiary of a rail authority. (**Schedule 1 [3] and [4]** are consequential amendments relating to this aspect of the new provisions.)



First print



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# Transport Administration Amendment (Rail Trails) Bill 2009

No. , 2009

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## A Bill for

An Act to amend the *Transport Administration Act 1988* to make further provision with respect to the closure of railway lines.

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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>Transport Administration Amendment (Rail Trails) Act 2009</i> .	3 4
<b>2 Commencement</b>	5
This Act commences on the date of assent to this Act.	6



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<b>Schedule 1</b>	<b>Amendment of Transport Administration Act 1988 No 109</b>	1
		2
<b>[1]</b>	<b>Section 99A Closure and disposal of railway lines</b>	3
	Omit the section.	4
<b>[2]</b>	<b>Part 9, Division 1D</b>	5
	Insert after Division 1C:	6
	<b>Division 1D Closure and disposal of railway lines</b>	7
<b>99F</b>	<b>Definitions</b>	8
	In this Division:	9
	<i>Crown managed railway land</i> has the meaning given by section 99J.	10
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	<i>disused railway line</i> means a railway line, or a part of a railway line, that is declared to be a disused railway line by an order in force under this Division.	12
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	<i>rail authority</i> includes the SRA Residual Holding Corporation, the Transport Administration Corporation and the Director-General.	15
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<b>99G</b>	<b>Closure and disposal of railway lines</b>	18
(1)	A rail infrastructure owner must not close a railway line unless the railway line is a disused railway line and its closure is authorised by the Minister under this Division.	19
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(2)	For the purposes of this section, a railway line is <i>closed</i> if the land concerned is sold or otherwise disposed of.	22
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(3)	This section does not prevent the sale or removal of railway tracks or other works from the land concerned.	24
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(4)	However, this section continues to apply to the land concerned even if railway tracks and other works are removed from it.	26
		27
(5)	A railway line is not closed merely because any assets, rights or liabilities relating to a disused railway line are transferred to the Lands Administration Ministerial Corporation, in accordance with this Division, to enable management of the disused railway line as Crown land.	28
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(6)	A railway line is not closed merely because a rail infrastructure owner enters into an ARTC arrangement or a lease or other	33
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	arrangement in respect of it pursuant to an agreement entered into by the Commonwealth and the State.	1 2
(7)	This section does not apply to a metro railway system.	3
<b>99H</b>	<b>Declaration of disused railway line</b>	4
	The Minister may, by order published in the Gazette, declare a railway line, or a part of a railway line, to be a disused railway line.	5 6 7
<b>99I</b>	<b>Authority to close certain railway lines after public consultation</b>	8
(1)	The Minister may, by order published in the Gazette, authorise the closure of a disused railway line.	9 10
(2)	The Minister must give public notice of any proposal to authorise the closure of a disused railway line before deciding to authorise the closure of the disused railway line.	11 12 13
(3)	The notice is to invite public submissions on the proposal.	14
(4)	The notice is to be published in a newspaper circulating in the area in which the railway line concerned is situated and on the website of the Department of Transport and Infrastructure.	15 16 17
(5)	The notice is to specify a submission period for the proposal, being a period during which submissions may be made to the Minister concerning the proposal.	18 19 20
(6)	The submission period is to be a period ending not less than 30 days after the notice is first published.	21 22
(7)	The Minister must have regard to any submissions received during the submission period in deciding whether or not to authorise the closure of the railway line.	23 24 25
<b>99J</b>	<b>Disused railway line may be managed as Crown land</b>	26
(1)	The Minister may enter into an arrangement with the Minister administering the <i>Crown Lands Act 1989</i> for the management of a disused railway line as Crown land.	27 28 29
(2)	For the purposes of the arrangement, the Minister may, by order under section 94, direct that any assets, rights or liabilities of a rail authority, or a subsidiary of a rail authority, relating to a disused railway line be transferred to the Lands Administration Ministerial Corporation.	30 31 32 33 34
(3)	Any land vested in the Lands Administration Ministerial Corporation, as a result of a direction made for the purposes of the arrangement, is <i>Crown managed railway land</i> .	35 36 37

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(4)	Crown managed railway land is Crown land for the purposes of the <i>Crown Lands Act 1989</i> and that Act applies in respect of the land, subject to this Division.	1 2 3
(5)	Crown managed railway land may not be sold, exchanged or otherwise disposed of under the <i>Crown Lands Act 1989</i> .	4 5
(6)	An easement is not to be granted in respect of Crown managed railway land except with the approval of the rail authority, or the subsidiary of a rail authority, in which the land was vested immediately before the land became Crown managed railway land or with the approval of the Director-General.	6 7 8 9 10
(7)	This section does not prevent the granting of rights-of-way, licences or permits in respect of Crown managed railway land, the dedication or reservation of Crown managed railway land, or any other dealing in Crown managed railway land that is authorised by the <i>Crown Lands Act 1989</i> .	11 12 13 14 15
(8)	However, the terms and conditions of the direction of the Minister under this Act by which land is vested in the Lands Administration Ministerial Corporation, and the regulations under this Act, may prohibit or restrict dealings in Crown managed railway land.	16 17 18 19 20
(9)	Crown managed railway lands are not claimable Crown lands under section 36 of the <i>Aboriginal Land Rights Act 1983</i> .	21 22
<b>99K</b>	<b>Re-acquisition of Crown managed railway land for transport purposes</b>	<b>23 24</b>
(1)	The Minister may terminate an arrangement for the management of a disused railway line as Crown land if satisfied that the land concerned is required for transport purposes under this Act.	25 26 27
(2)	For that purpose, the Minister may, by order in writing, direct that any specified assets, rights or liabilities of the Crown relating to Crown managed railway land be transferred to a rail authority or a subsidiary of a rail authority.	28 29 30 31
(3)	An order under this section may be subject to specified terms and conditions.	32 33
(4)	Schedule 4 applies to the transfer of assets, rights and liabilities under this section.	34 35
(5)	Words and expressions used in this section have the same meanings as they have in Schedule 4.	36 37

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Schedule 1 Amendment of Transport Administration Act 1988 No 109

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<b>[3] Schedule 4 Transfer of assets, rights and liabilities</b>	1
Omit the section reference appearing before clause 1.	2
<b>[4] Schedule 4, clause 2</b>	3
Insert after clause 2 (1) (a):	4
(a1) an order under section 99K transferring assets, rights or liabilities to a rail authority or a subsidiary of a rail authority,	5
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	7
<b>[5] Schedule 7 Savings, transitional and other provisions</b>	8
Insert at the end of clause 2 (1):	9
<i>Transport Administration Amendment (Rail Trails) Act 2009</i>	10