

## VERY FAST TRAIN (ROUTE INVESTIGATION) BILL 1989

NEW SOUTH WALES



### EXPLANATORY NOTE

**(This Explanatory Note relates to this Bill as introduced into Parliament)**

The object of this Bill is to facilitate the surveying, examining and testing of land so as to allow the thorough investigation of a route for a very fast train linking Sydney with other centres within or outside the State.

The proposed Act will enable the issue of permits authorising the entry of land to carry out survey and other exploratory work. Permits will be required if agreement cannot be reached with owners and occupiers of land for such work to be carried out without a permit.

Compensation for loss or damage suffered by owners or occupiers as a consequence of any such exploratory work may be dealt with by agreements voluntarily entered into. Provisions of the Mining Act 1973 will apply so as to allow appropriate compensation to be claimed if land has been entered under the authority of a permit.

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#### PART 1—PRELIMINARY

**Clause 1** specifies the short title of the proposed Act.

**Clause 2** provides for the proposed Act to commence on a proclaimed day or proclaimed days.

**Clause 3** defines certain expressions for the purposes of the proposed Act.

**Clause 4** provides the proposed Act will bind the Crown.

**Clause 5** states the object of the proposed Act.

#### PART 2—PERMITS

**Clause 6** enables the Minister to declare persons as "approved persons" for the purposes of the proposed Act. Only persons with access to adequate technical expertise to carry out surveys and having sufficient financial resources to pay compensation can be approved.

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**Clause 7** allows approved persons to apply for permits. Applicants must advertise their intention to apply and must supply certain particulars in their applications. The Minister may defer consideration of an application until any further information requested is supplied.

**Clause 8** empowers the Minister to grant or refuse permits. A permit may be granted for all or part of the land to which an application relates. The Minister must take into account certain issues before granting a permit, such as whether unreasonable duplication of surveys may result.

**Clause 9** fixes 6 months as the maximum term for a permit, but extensions for further periods of up to 6 months may be granted. No work will be able to be carried out under a permit later than 7 years after the commencement of the proposed section.

**Clause 10** provides for conditions to be imposed on the carrying out of work under the authority of a permit, which conditions may be varied during the currency of the permit.

**Clause 11** allows the Minister to reduce the area to which a permit applies, at the request of the holder of the permit.

**Clause 12** provides for the surrender or revocation of a permit. The Minister may revoke a permit if any of its conditions are contravened.

**Clause 13** declares the rights to be conferred by permits. A permit authorises its holder (and other persons authorised by the holder) to enter land and to carry out surveys, examinations and tests or to use the land for access to other land. Entry to dwellings is not authorised, and notice of intention to enter any land must be given in accordance with the regulations.

**Clause 14** preserves the restrictions imposed by other laws on a person who is exercising the rights conferred by a permit. The only exceptions are that things authorised by a permit are not prohibited by environmental planning instruments and do not require development consent.

**Clause 15** creates an offence when a condition of a permit is contravened by the holder of the permit or knowingly contravened by anyone authorised by the holder to enter land. The maximum penalty for the offence is 400 penalty units (presently \$40,000).

**Clause 16** creates an offence when a person prevents another person from doing something authorised to be done by a permit or hinders or obstructs another person who is doing any such thing. The maximum penalty for such an offence is 50 penalty units (presently \$5,000).

### **PART 3—COMPENSATION**

**Clause 17** allows owners and occupiers of land to enter into agreements relating to the payment of compensation or the performance of work in respect of any loss or damage suffered because of the activities of a permit holder or a person authorised to enter land by any such holder.

**Clause 18** entitles owners and occupiers of land to compensation for loss or damage suffered as a result of anything done or omitted to be done by a permit holder or a person authorised to enter land by any such holder.

**Clause 19** applies with modifications provisions of the Mining Act 1973 as a scheme for the determination of liability for, and for the assessment and enforcement of payment of, compensation to which owners and occupiers of land are entitled under the proposed Act. Under the scheme, liability will be determined and compensation will be assessed by a mining warden's court, subject to the provisions of any agreement for the payment of compensation made under clause 17.

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**PART 4—MISCELLANEOUS**

**Clause 20** allows the Minister to delegate functions of the Minister under the proposed Act to the Director of Public Works, the Chief Warden under the Mining Act 1973 or any other person prescribed by regulations made under the proposed Act.

**Clause 21** provides that any offence against the proposed Act may be dealt with by a Local Court, which may impose a maximum penalty of \$5,000. Offences against proposed section 15 may be dealt with by the Land and Environment Court, which may impose a maximum penalty of \$40,000.

**Clause 22** empowers the making of regulations for the purposes of the proposed Act by the Governor-in-Council.

**Clause 23** makes a consequential amendment to the Land and Environment Court Act 1979.

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