



New South Wales

Botany Bay National Park (Helicopter Base Relocation) Bill 2004

Explanatory note

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

Overview of Bill

The object of this Bill is to enable the relocation of the Southern Region SLSA Helicopter Rescue Service from the former Prince Henry Hospital site to an area within Botany Bay National Park by:

- (a) revoking the reservation under the *National Parks and Wildlife Act 1974* of certain land as part of Botany Bay National Park, and
- (b) vesting that land in the Crown as Crown land within the meaning of the *Crown Lands Act 1989*, and
- (c) facilitating the use of that land for the purposes of a helicopter base for emergency aerial evacuation, retrieval and rescue.

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 describes the objects of the proposed Act.

Clause 4 defines *helicopter facilities* as including buildings and installations for the parking, fuelling, servicing and maintenance of helicopters.

Clause 5 specifies the land to which the proposed Act applies.

Clause 6 revokes the reservation under the *National Parks and Wildlife Act 1974* of that land as part of Botany Bay National Park.

Clause 7 vests the land to which the proposed Act applies in the Crown and provides for it to be Crown land within the meaning of the *Crown Lands Act 1989*. It also dispenses with the necessity for a separate assessment to be carried out under the *Crown Lands Act 1989* in relation to land to which the proposed Act applies, prior to the granting of a lease or a licence under the *Crown Lands Act 1989* for the following purposes:

- (a) the taking off, landing and movement of helicopters used for emergency evacuation, retrieval or rescue,
- (b) helicopter facilities for those helicopters,
- (c) accommodation for the crew of those helicopters, including pilots, medical practitioners, nurses and paramedical workers.

Clause 8 overrides any provisions of an environmental planning instrument made under the *Environmental Planning and Assessment Act 1979* that prohibit, require development consent for, or otherwise restrict, the development of land to which the proposed Act applies for those purposes.

Clause 9 makes it clear that the development of land, to which the proposed Act applies, for those purposes is an essential public purpose for the purposes of section 36 of the *Aboriginal Land Rights Act 1983*. This has the effect of resolving any doubt as to whether the land is claimable Crown land under that Act.

Clause 10 enables the Minister administering the *National Parks and Wildlife Act 1974* to grant an easement or right of way, over land reserved under that Act, for the purpose of enabling access or the provision of services to land to which the proposed Act applies.

Clause 11 ensures that the proposed Act does not operate to extinguish native title rights and interests existing in relation to the land to which the proposed Act applies immediately before it is vested in the Crown under the proposed Act.

Clause 12 provides that the proposed Act binds the Crown.

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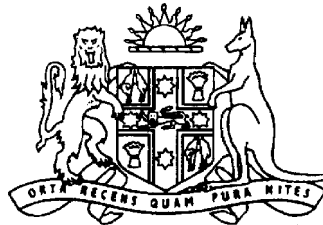
Explanatory note

Clause 13 enables the making of regulations for the purposes of the proposed Act, including regulations of a savings or transitional nature consequent on the enactment of the proposed Act.

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No. , 2004

A Bill for

An Act to revoke the reservation under the *National Parks and Wildlife Act 1974* of an area of land as part of Botany Bay National Park and to facilitate its use for the purposes of a helicopter rescue service base; and for other purposes.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Botany Bay National Park (Helicopter Base Relocation) Act 2004</i> .	3 4
2 Commencement	5
This Act commences on a day or days to be appointed by proclamation.	6 7
3 Objects of this Act	8
The objects of this Act are:	9
(a) to revoke the reservation under the <i>National Parks and Wildlife Act 1974</i> of certain land as part of the Botany Bay National Park, being land that is required for the purposes of a helicopter base for emergency aerial evacuation, retrieval and rescue, and	10 11 12 13 14
(b) to facilitate the use of that land for those purposes.	15
4 Definitions	16
(1) In this Act:	17
<i>helicopter facilities</i> includes buildings and installations for the parking, fuelling, servicing and maintenance of helicopters.	18 19
(2) Words and expressions used in this Act have the same meanings in this Act (other than in section 11) as they have in the <i>Environmental Planning and Assessment Act 1979</i> .	20 21 22
5 Land to which this Act applies	23
This Act applies to the land shown by cross-hatching on the survey plan that is entitled “PLAN OF PART LOT 5209 DP 704508”, identified as Plan No P572703–L1, dated 13.11.03 and deposited in the head office of the Department of Lands.	24 25 26 27
6 Revocation of land as national park	28
The reservation under the <i>National Parks and Wildlife Act 1974</i> of the land to which this Act applies as part of Botany Bay National Park is revoked.	29 30 31

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- 7 Application of Crown Lands Act 1989** 1
- (1) On and from the revocation under this Act of the reservation as 2
national park of the land to which this Act applies, that land: 3
- (a) is vested in the Crown for an estate in fee simple, freed and 4
discharged from all trusts, obligations, estates, interests and 5
rights of way or other easements, and 6
- (b) is Crown land within the meaning of the *Crown Lands 7
Act 1989*. 8
- (2) Despite subsection (1) (b), Part 3 of the *Crown Lands Act 1989* and 9
section 35 of that Act do not apply to the lease of, or the granting of 10
a licence in respect of, land to which this Act applies for the 11
purposes of the following: 12
- (a) the taking off, landing and movement of helicopters used for 13
emergency evacuation, retrieval or rescue, 14
- (b) helicopter facilities for those helicopters, 15
- (c) accommodation for the crew of those helicopters, including 16
pilots, medical practitioners, nurses and paramedical workers. 17
- 8 Application of environmental planning instruments** 18
- An environmental planning instrument cannot prohibit, require 19
development consent for, or otherwise restrict, the development of 20
land to which this Act applies for the purposes of the following: 21
- (a) the taking off, landing and movement of helicopters used for 22
emergency evacuation, retrieval or rescue, 23
- (b) helicopter facilities for those helicopters, 24
- (c) accommodation for the crew of those helicopters, including 25
pilots, medical practitioners, nurses and paramedical workers. 26
- 9 Application of section 36 of Aboriginal Land Rights Act 1983** 27
- For the avoidance of doubt, the carrying out of the following, on 28
land to which this Act applies, is taken to be an essential public 29
purpose for the purposes of section 36 of the *Aboriginal Land Rights 30
Act 1983*: 31
- (a) development for the purposes of the taking off, landing and 32
movement of helicopters used for emergency evacuation, 33
retrieval or rescue, 34
- (b) development for the purposes of helicopter facilities for those 35
helicopters, 36
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(c)	development for the purposes of accommodation for the crew of those helicopters, including pilots, medical practitioners, nurses and paramedical workers.	1 2 3
10	Minister administering National Parks and Wildlife Act 1974 may grant easement or right of way	4 5
	For the purpose of enabling access or the provision of services to land to which this Act applies and despite any other Act or law, the Minister administering the <i>National Parks and Wildlife Act 1974</i> may, on such terms and conditions as that Minister thinks fit, grant an easement or right of way under section 153 of that Act over land reserved under that Act.	6 7 8 9 10 11
11	Saving of native title rights and interests	12
(1)	This Act does not operate to extinguish any native title rights and interests existing in relation to the land to which this Act applies immediately before its vesting by section 7.	13 14 15
(2)	This section does not affect any extinguishment of native title rights and interests by the operation of the <i>Native Title Act 1993</i> of the Commonwealth or the <i>Native Title (New South Wales) Act 1994</i> .	16 17 18
(3)	Words and expressions used in this section have the same meanings as they have in the <i>Native Title Act 1993</i> of the Commonwealth.	19 20
12	Act to bind Crown	21
	This Act binds the Crown in right of New South Wales and, in so far as the legislative power of the Parliament of New South Wales permits, the Crown in all its other capacities.	22 23 24
13	Regulations	25
(1)	The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.	26 27 28 29
(2)	The regulations may contain provisions of a savings or transitional nature consequent on the enactment of this Act.	30 31
(3)	Any such provision may, if the regulations so provide, take effect from the date of commencement of this Act or a later date.	32 33

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- (4) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:
- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or
 - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

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