

1996—No. 23

**PROPERTY LEGISLATION AMENDMENT (EASEMENTS)
ACT 1995 No. 71—PROCLAMATION**

NEW SOUTH WALES



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A. M. GLEESON,

By deputation from His Excellency the Governor.

I, Rear Admiral PETER ROSS SINCLAIR, A.C., Governor of the State of New South Wales, with the advice of the Executive Council, and in pursuance of section 2 of the Property Legislation Amendment (Easements) Act 1995, do, by this my Proclamation, appoint 12 February 1996 as the day on which that Act commences, except:

- (a) Schedule 1 [5], [6] (but only in so far as it would insert section 88BB into the Conveyancing Act 1919), [7], [11], [16], [17] and [19]–[22] to that Act; and
- (b) Schedule 2 [4] and [6] to that Act.

Signed and sealed at Sydney, this 31st day of January 1996.

By His Excellency's Command,

KIM YEADON, M.P.,
Minister for Land and Water Conservation.

GOD SAVE THE QUEEN!

EXPLANATORY NOTE

This Proclamation commences the Property Legislation Amendment (Easements) Act 1995, except as specified above.

The provisions of Schedule 1 to be commenced amend the Conveyancing Act so as to:

- allow covenants that require repair or maintenance of the site of an easement to continue to apply after ownership of the land having the benefit or burden of the covenant changes
- provide that the land having the burden or benefit of an easement, and the site of an easement, will be adequately specified if it is shown in accordance with regulations made under the Conveyancing Act or the Real Property Act or (in particular cases) in any other way that is satisfactory to the Registrar-General
- remove inappropriate provisions which imply that third parties may release, vary or modify an easement
- make it clear that easements and other interests may be created by plans recorded under the Act in the same way as they may be created by plans registered under the Act
- make it clear that an easement or other interest created under section 88B of the Conveyancing Act is not affected when only part of the land having the benefit of the easement comes into the same ownership as the parcel of land having the burden of the easement
- provide that the Supreme Court may impose an easement burdening land if the easement is reasonably necessary for the effective use or development of other land that will have the benefit of the easement and use of the land in accordance with the easement would not be inconsistent with the public interest
- abolish a defunct committee.

The provisions of Schedule 2 to be commenced amend the Real Property Act so as to:

- specify separately the easements that will affect a registered proprietor's estate or interest in land even though they are omitted from or are misdescribed in a folio of the Register kept under the real Property Act
 - confirm that the Registrar-General must enter particulars of a registered easement (or profit a prendre) on the folio for the land to be burdened by the easement (or profit a prendre) and on any folio for the land benefited
 - make it clear that, when only part of the land having the benefit of an easement recorded in the Register kept under that Act comes into the same ownership as a separate parcel of land having the burden of the easement, the easement continues to apply.
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