

LOCAL GOVERNMENT AMENDMENT (COMMUNITY LAND MANAGEMENT) BILL

Schedule of the amendments referred to in the Legislative Council's Message of 17 November 1998.

No. 1 Page 3, Schedule 1. Insert before line 3:

[2] Section 29 Public hearing into reclassification

Insert at the end of the section:

- (2) A council must, before making any resolution under section 32, arrange a public hearing in respect of any proposal to reclassify land as operational land by such a resolution.

No. 2 Page 3, Schedule 1. Insert before line 3:

[3] Section 30 Reclassification of community land as operational

Omit "On the commencement of a local environmental plan that reclassifies community land as operational land" from section 30 (1).

Insert instead "A local environmental plan that reclassifies community land as operational land may make provision to the effect that, on commencement of the plan".

[4] Section 30 (1)

Omit "the land is".

Insert instead "that the land is by operation of the plan".

[5] Section 30 (2)

Omit section 30 (2). Insert instead:

- (2) A provision referred to in subsection (1) has effect according to its tenor, but only if the Governor has, before the making of the local environmental plan, approved of the provision.

No. 3 Page 4, Schedule 1 [4], lines 6 and 7. Omit all words on those lines.

No. 4 Page 13, Schedule 1 [5]. Insert after line 21:

36E Core objectives for management of community land categorised as a natural area

The core objectives for management of community land categorised as a natural area are:

- (a) to conserve biodiversity and maintain ecosystem function in respect of the land, or the feature or habitat in respect of which the land is categorised as a natural area, and
- (b) to maintain the land, or that feature or habitat, in its natural state and setting, and
- (c) to provide for the restoration and regeneration of the land, and

- (d) to provide for community use of and access to the land in such a manner as will minimise and mitigate any disturbance caused by human intrusion, and
- (e) to assist in and facilitate the implementation of any provisions restricting the use and management of the land that are set out in a recovery plan or threat abatement plan prepared under the Threatened Species Conservation Act 1995 or the Fisheries Management Act 1994.

36F Core objectives for management of community land categorised as a sportsground

The core objectives for management of community land categorised as a sportsground are:

- (a) to encourage, promote and facilitate recreational pursuits in the community involving organised and informal sporting activities and games, and
- (b) to ensure that such activities are managed having regard to any adverse impact on nearby residences.

36G Core objectives for management of community land categorised as a park

The core objectives for management of community land categorised as a park are:

- (a) to encourage, promote and facilitate recreational, cultural, social and educational pastimes and activities, and
- (b) to provide for passive recreational activities or pastimes and for the casual playing of games, and
- (c) to improve the land in such a way as to promote and facilitate its use to achieve the other core objectives for its management.

36H Core objectives for management of community land categorised as an area of cultural significance

- (1) The core objectives for management of community land categorised as an area of cultural significance are to retain and enhance the cultural significance of the area (namely its Aboriginal, aesthetic, archaeological, historical, technical or research or social significance) for past, present or future generations by the active use of conservation methods.
- (2) Those conservation methods may include any or all of the following methods:
 - (a) the continuous protective care and maintenance of the physical material of the land or of the context and setting of the area of cultural significance,
 - (b) the restoration of the land, that is, the returning of the existing physical material of the land to a known earlier state by removing accretions or by reassembling existing components without the introduction of new material,

- (c) the reconstruction of the land, that is, the returning of the land as nearly as possible to a known earlier state,
- (d) the adaptive reuse of the land, that is, the enhancement or reinforcement of the cultural significance of the land by the introduction of sympathetic alterations or additions to allow compatible uses (that is, uses that involve no changes to the cultural significance of the physical material of the area, or uses that involve changes that are substantially reversible or changes that require a minimum impact),
- (e) the preservation of the land, that is, the maintenance of the physical material of the land in its existing state and the retardation of deterioration of the land.

- (3) A reference in subsection (2) to land includes a reference to any buildings erected on the land.

36I Core objectives for management of community land categorised as general community use

The core objectives for management of community land categorised as general community use are to promote, encourage and provide for the use of the land, and to provide facilities on the land, to meet the current and future needs of the local community and of the wider public:

- (a) in relation to public recreation and the physical, cultural, social and intellectual welfare or development of individual members of the public, and
- (b) in relation to purposes for which a lease, licence or other estate may be granted in respect of the land (other than the provision of public utilities and works associated with or ancillary to public utilities).

36J Core objectives for management of community land categorised as bushland

The core objectives for management of community land categorised as bushland are:

- (a) to ensure the ongoing ecological viability of the land by protecting the ecological biodiversity and habitat values of the land, the flora and fauna (including invertebrates, fungi and micro-organisms) of the land and other ecological values of the land, and
- (b) to protect the aesthetic, heritage, recreational, educational and scientific values of the land, and
- (c) to promote the management of the land in a manner that protects and enhances the values and quality of the land and facilitates public enjoyment of the land, and to implement measures directed to minimising or mitigating any disturbance caused by human intrusion, and
- (d) to restore degraded bushland, and

- (e) to protect existing landforms such as natural drainage lines, watercourses and foreshores, and
- (f) to retain bushland in parcels of a size and configuration that will enable the existing plant and animal communities to survive in the long term, and
- (g) to protect bushland as a natural stabiliser of the soil surface.

36K Core objectives for management of community land categorised as wetland

The core objectives for management of community land categorised as wetland are:

- (a) to protect the biodiversity and ecological values of wetlands, with particular reference to their hydrological environment (including water quality and water flow), and to the flora, fauna and habitat values of the wetlands, and
- (b) to restore and regenerate degraded wetlands, and
- (c) to facilitate community education in relation to wetlands, and the community use of wetlands, without compromising the ecological values of wetlands.

36L Core objectives for management of community land categorised as an escarpment

The core objectives for management of community land categorised as an escarpment are:

- (a) to protect any important geological, geomorphological or scenic features of the escarpment, and
- (b) to facilitate safe community use and enjoyment of the escarpment.

36M Core objectives for management of community land categorised as a watercourse

The core objectives for management of community land categorised as a watercourse are:

- (a) to manage watercourses so as to protect the biodiversity and ecological values of the instream environment, particularly in relation to water quality and water flows, and
- (b) to manage watercourses so as to protect the riparian environment, particularly in relation to riparian vegetation and habitats and bank stability, and
- (c) to restore degraded watercourses, and
- (d) to promote community education, and community access to and use of the watercourse, without compromising the other core objectives of the category.

36N Core objectives for management of community land categorised as foreshore

The core objectives for management of community land categorised as foreshore are:

- (a) to maintain the foreshore as a transition area between the aquatic and the terrestrial environment, and to protect and enhance all functions associated with the foreshore's role as a transition area, and
- (b) to facilitate the ecologically sustainable use of the foreshore, and to mitigate impact on the foreshore by community use.

No. 5 Page 13, Schedule 1 [6]. Insert after line 28:

- (3) The council may not, however, proceed to adopt the plan until a public hearing has been held in accordance with section 40A.

No. 6 Page 14, Schedule 1 [7], lines 3-11.
Omit all words on those lines. Insert instead:

40A Public hearing in relation to proposed plans of management

The council must hold a public hearing in respect of a proposed plan of management if the proposed plan would have the effect of categorising or recategorising community land under section 36 (4) or (5).

No. 7 Page 15, Schedule 1 [10], lines 4-12.
Omit all words on those lines. Insert instead:
the granting of the lease, licence or other estate:

- (i) for a purpose prescribed by subsection (4), or for a purpose prescribed by any of sections 36E to 36N as a core objective of the categorisation of the land concerned, or
- (ii) for a purpose prescribed by the regulations, if the plan of management applies to several areas of community land, or
- (iii) for a short-term, casual purpose prescribed by the regulations, or
- (iv) for a residential purpose in relation to housing owned by the council, or
- (v) for the purpose of providing pipes, conduits or other connections under the surface of the ground for the connection of premises adjoining the community land to a facility of the council or other public utility provider that is situated on the community land,

No. 8 Page 15, Schedule 1 [10], lines 15-17.
Omit "must not be granted for a purpose other than a purpose mentioned in subsection (1) (a) if its grant would defeat any of". Insert instead "may be granted for a purpose mentioned in subsection (1) (b) only if the purpose for which it is granted is consistent with".

No. 9 Page 15, Schedule 1 [10], lines 17-19.
Omit "as prescribed under section 36, of its categorisation in terms of that section".
Insert instead "as prescribed in this Part, of its categorisation".

No. 10 Page 16, Schedule 1 [10]. Insert after line 17:

- (3) A lease or licence for a term exceeding 5 years may be granted only by tender in accordance with Division 1 of Part 3, unless it is granted to a non-profit organisation.

No. 11 Page 17, Schedule 1 [16] and [17], lines 9-13.

Omit all words on those lines. Insert instead:

Omit the subsection. Insert instead:

- (8) After considering the application and any report of the Director of Planning, the Minister, if satisfied that:
 - (a) subsections (1), (2) and (6) have been complied with, and
 - (b) such consent would not contravene section 46, and
 - (c) in all the circumstances, it is desirable to grant consent,may consent to the granting of a lease, licence or other estate in respect of the whole or part of the land to which the application relates, subject to such terms and conditions as the Minister specifies.
- (9) On request by any person, the Minister must provide that person, within 14 days of that request, with a written statement of reasons for consenting to, or refusing to consent to, the granting of a lease, licence or other estate in accordance with subsection (8).

No. 12 Page 19, Schedule 1 [19], line 6.

Insert "this section or" before "the regulations".

No. 13 Page 19, Schedule 1 [19], lines 8 and 9.

Insert "this section or" before "the regulations".

No. 14 Page 19, Schedule 1 [19]. Insert after line 15:

- (4) The following buildings and structures are prescribed for the purposes of subsection (1) (a):
 - (a) walkways,
 - (b) pathways,
 - (c) bridges,
 - (d) causeways,
 - (e) observation platforms,
 - (f) signs.
- (5) The following purposes are prescribed for the purposes of subsection (1) (b):
 - (a) information kiosks,
 - (b) refreshment kiosks (but not restaurants),
 - (c) work sheds or storage sheds required in connection with the maintenance of the land,
 - (d) toilets or rest rooms.

No. 15 Page 21. Insert after line 36:

[20] Section 47G

Insert before section 48:

47G Public hearings

- (1) In this section, public hearing means any public hearing required to be arranged under this Part.
- (2) The person presiding at a public hearing must not be:
 - (a) a councillor or employee of the council holding the public hearing, or
 - (b) a person who has been a councillor or employee of that council at any time during the 5 years before the date of his or her appointment.
- (3) Not later than 4 days after it has received a report from the person presiding at the public hearing as to the result of the hearing, the council must make a copy of the report available for inspection by the public at a location within the area of the council.

No. 16 Page 21. Insert after line 36:

[20] Section 409 The consolidated fund

Insert after section 409 (3) (c):

- , and
- (d) money that has been received as rents, profits or other proceeds from a lease, licence or other estate granted in respect of community land must be expended on community land acquisition and community land management requirements, and may be used for any other purpose only to the extent that such receipts are surplus to the outgoings necessary to meet those requirements.

No. 17 Page 22. Insert before line 1:

[20] Section 734 Public hearings by a council

Omit "(section 29 excepted)". Insert instead "(section 29 (1) excepted)".

[21] Section 734 (2)

Insert "this Act and" before "the regulations".

No. 18 Page 22. Insert after line 10:

Transitional application of section 30

The amendments made to section 30 (1) and (2) by the Local Government Amendment (Community Land Management) Act 1998 do not apply in respect of a local environmental plan a draft of which was authorised for public exhibition by a certificate under section 65 of the Environmental Planning and Assessment Act 1979 issued before those amendments took effect.

Effect of certain environmental planning instruments on permissible uses

- (1) This clause applies where an environmental planning instrument contains a provision (the relevant land use provision), in force for the time being, that, immediately before the commencement of Part 2:
 - (a) applied in relation to an area that has subsequently become (whether by a provision of Schedule 7 or otherwise) classified as community land, and
 - (b) permitted the carrying out of development on the land (whether with or without development consent) for the purposes (or a specified class of the purposes) specified in Division 2 or 3 of Part 13 of the Local Government Act 1919.
 - (2) Despite clause 4 of Schedule 7 and any other provision of this Act, and until the relevant land use provision is amended, by an environmental planning instrument, so as to remove the reference to the provisions of the Local Government Act 1919 referred to in subclause (1) (b), nothing in a plan of management under Part 2 operates to permit:
 - (a) the carrying out of development on the land concerned, whether with or without development consent, for a purpose for which development was, immediately before the commencement of Part 2, prohibited by the relevant land use provision, or
 - (b) the carrying out of development on any such land, without development consent, for a purpose for which development consent was, immediately before the commencement of Part 2, required by the relevant land use provision.
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