

Crown Lands (Prevention of Sale) Bill 2004

Explanatory note

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

Overview of Bill

The objects of this Bill are:

- (a) to identify and protect the values of certain Crown land (termed **protected land**) by requiring specified Government agencies and the Director-General of the Department of Lands to participate in an assessment process and by preventing the sale, or the revocation of any reservation from sale applying to, protected land in certain circumstances, and
- (b) to enable certain nominated agencies to recommend that protected land be reserved from sale.

No restriction is placed on the types of values that may be identified for the purposes of assessing Crown land under the proposed Act. However, examples set out in Schedule 1 to the proposed Act include value for the purpose of ensuring or assisting environmental protection, nature conservation, conservation of water resources and protection and conservation of Aboriginal and European heritage and for recreation.

The proposed Act operates retrospectively by rendering void any dealings of specified kinds with protected land that may occur after the date of introduction of this Bill into the Legislative Council.

Outline of provisions

Part 1 Preliminary

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.

Clause 3 defines certain words and expressions used in the proposed Act. **The agencies** are defined to mean the Commissioner of the Soil Conservation Service, the Department of Infrastructure, Planning and Natural Resources, the Department of Environment and Conservation, the Department of Primary Industries, the Heritage Council, local councils and the Department of Aboriginal Affairs. The Minister referred to in the proposed Act is the Minister administering the *Crown Lands Act 1989* and the Director-General of the Department is the Director-General of the Department of Lands.

Clause 4 sets out the objects of the proposed Act which are as stated above.

Clause 5 identifies the land to which the proposed Act applies. This land is referred to in the proposed Act as **protected land** and consists of Crown land:

- (a) in the Eastern and Central Division of the State that is leased and would otherwise be available for purchase under the *Crown Lands (Continued Tenures) Act 1989*, or
- (b) that is the subject of a wilderness proposal under the *Wilderness Act 1987*, or
- (c) that is entered in the Register of the National Estate kept under the *Australian Heritage Council Act 2003* of the Commonwealth, or
- (d) that is declared World Heritage property within the meaning of the *Environment Protection and Biodiversity Conservation Act 1999* of the Commonwealth (being property listed in the World Heritage List maintained under the Convention for the Protection of the World Cultural and Natural Heritage or property declared by the Minister for the Environment and Heritage under section 14 of that Act to be declared World Heritage property), or
- (e) that is remnant native vegetation, or
- (f) that is a travelling stock reserve.

Clause 6 provides that the proposed Act is to have effect despite the provisions of any other Act.

Part 2 Restrictions on, and assessment of values of, protected land

Clause 7 provides that the Minister must not sell, grant an application to purchase, or revoke a reservation from sale applying to, protected land unless the requirements of the proposed Act have been complied with and the sale, granting of the application or the revocation is not prevented by an objection to the sale, grant or revocation made by an agency under either the proposed Act or the

Forestry Act 1916.

Clause 8 provides that the Director-General must give each agency notice of any proposed sale of, application to purchase, or revocation of a restriction from sale applying to, protected land.

Clause 9 requires that the notice must adequately identify the protected land to which it applies.

Clause 10 requires the Director-General of the Department to give public notification of the notice given to the agencies under clause 8.

Clause 11 enables the Director-General of the Department of Environment and Conservation to object to the proposed sale or revocation of the reservation from sale within a specified time.

Clause 12 confers a similar right on the Department of Primary Industries and also makes it clear that the existing entitlement of the Department of Primary Industries to make objections to the sale of Crown land under the *Forestry Act 1916* is unaffected.

Clause 13 requires the Director-General of the Department to inform other agencies as soon as practicable after an objection is made under clause 11 or 12 by the Director-General of the Department of Environment and Conservation or the Department of Primary Industries.

Clause 14 requires each of the agencies, if neither the Director-General of the Department of Environment and Conservation nor the Department of Primary Industries have lodged an objection, to provide the Director-General of the Department with a report commenting on the values of protected land, including values of a kind referred to in Schedule 1 to the proposed Act, or a certificate certifying that the agency believes that the values of protected land are of insufficient significance to justify the agency objecting to its sale or to the revocation of a reservation from sale applying to it.

Clause 15 states that reports and certificates provided to the Director-General of the Department are to be available for public inspection.

Clause 16 imposes on the Director-General of the Department an obligation to assess, and prepare an assessment report on, the values of protected land. In making the assessment, the Director-General is to have regard to reports or certificates concerning the protected land provided by the agencies and to any assessment of its capabilities made under the *Crown Lands Act 1989*.

Clause 17 requires the Director-General of the Department to complete, and to give notice of completion of, an assessment report in a specified time. The Minister is also to cause a copy of the assessment report to be tabled in each House of Parliament.

Clause 18 provides that, in a specified time after publication of a notice of completion of an assessment report, any of the agencies, including the Director-General of the Department of Environment and Conservation and the Department of Primary Industries, may object to the sale of, granting of an application to purchase, or the revocation of a reservation from sale applying to, protected land.

Clause 19 states that if an objection is made, any purported sale of, granting of an application to purchase, or revocation of a reservation from sale applying to, protected land is void. No further proposal for sale, application to purchase or application for revocation of a reservation from sale applying to the land concerned may be considered or dealt with, under the proposed Act, until 5 years after the date on which a proposal or application in respect of it was last refused.

Clause 20 requires an agency making an objection to give public notice of the objection.

Clause 21 entitles a member of the public to obtain a copy of an objection from the agency making it.

Part 3 Miscellaneous

Clause 22 enables agencies to recommend that protected land be reserved from sale.

Clause 23 requires the Director-General of the Department to make material relating to protected land available for public inspection.

Clause 24 enables the Director-General of the Department to delegate functions to any person employed in the Department.

Clause 25 enables persons to seek to remedy or restrain a breach of the proposed Act by taking proceedings in the Land and Environment Court even though they would otherwise have no standing to do so.

Clause 26 contains provisions of a transitional nature relating to dealings with protected land that may occur between the date of introduction of this Bill into the Legislative Council and the date on which the Bill receives assent. Any dealings of a specified kind with protected land that occur after the introduction of the Bill are stated to be void.

Clause 27 is a regulation-making power.

Clause 28 makes consequential amendments to the *Land and Environment Court Act 1979*.

Schedule 1 Values

Schedule 1 provides examples of the kinds of values to be taken into account by the agencies and the Director-General of the Department in assessing protected land.