

Public Lands Protection 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 constitute the Public Land Protection Trust (*the Trust*), and
- (b) to establish a Register of significant public land (*the Register*), and
- (c) to ensure that significant public land remains in public ownership, that public access is maintained to that land and that any use of that land is consistent with the significance of the land, and
- (d) to amend the *Education Act 1990* to ensure that the sites of closed government schools remain in public ownership for at least 20 years after the schools concerned are closed (unless the local community wishes otherwise) and that at least 30% of each site is dedicated as public open space if the site is to be sold or otherwise disposed of after that time.

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.

Clause 4 sets out the objects of the proposed Act, which are to ensure that significant public land remains in public ownership, and that public access is maintained to that land, and that any use of that land is consistent with the significance of the land.

Part 2 The Trust

Clause 5 constitutes a corporation under the corporate name of the “Public Land Protection Trust”.

Clause 6 provides for the appointment of trustees by the Minister and also provides for the procedures of the Trust.

Clause 7 sets out the functions of Trust, which are:

- (a) to receive and consider proposals in relation to the inclusion of public land in the Register of significant public land and to make recommendations to the Minister in relation to those proposals, and
- (b) to make recommendations to the Minister in relation to the leasing or licensing of any significant public land or building within such land, and
- (c) to carry out investigations, research and inquiries relating to the matters referred to in paragraphs (a) and (b), and
- (d) to exercise such other functions as are conferred or imposed on it by or under the proposed Act or any other Act or the regulations.

Part 3 Significant public land

Division 1 Identification

Clause 8 provides that any person, body or organisation may submit to the Trust a written proposal that an area of public land be included in the Register of significant public land. On receipt of the proposal, the Trust is to seek the comments of the Minister and is to consider the proposal and the Minister's comments (if any). After considering the proposal, the Trust is to make a recommendation to the Minister in relation to the proposal. If the Trust recommends that land be included in the Register, it is to include with its recommendation proposed key purposes for which the land may be used, being purposes that the Trust considers to be consistent with the significance of the land.

Clause 9 permits the Minister to amend the Register by order published in the Gazette. An order may insert, omit or amend a description of public land and the key purposes for which the land may be used. The Minister is required to consider any recommendation of the Trust before amending the Register and is to publish reasons if the Minister does not follow the recommendations of the Trust. An order of the Minister must be tabled in each House of Parliament and may be disallowed by either House.

Division 2 Restrictions on dealings

Clause 10 prohibits the sale, transfer, lease, licence or other alienation, and any mortgage or other encumbrance, of the whole, or any part, of any significant public land except as provided by the proposed Act. The Governor is able to transfer the whole or any part of any significant public land to a statutory body representing the Crown that is subject to the direction and control of the Minister.

Clause 11 restricts development within significant public land to development for any purpose that is in accordance with the key purposes for which that land may be used. However, development for residential purposes is prohibited.

Clause 12 allows a lease or licence to be granted of a building or land within significant public land for any purpose that is in accordance with the key purposes for which that land may be used, but only with the consent of the Minister and after the main terms of the lease or licence have been subject to public scrutiny and comment. Management agreements may be entered into (subject to parallel restrictions) with the local council or a prescribed person or body. The granting of an easement in relation to land within significant public land requires the consent of the Minister and public scrutiny and comment.

Part 4 Miscellaneous

Clause 13 provides that the proposed Act does not affect the application of the *Heritage Act 1977* to any significant public land.

Clause 14 allows the Governor to make regulations for the purposes of the proposed Act.

Clause 15 is a formal provision giving effect to the amendments to the *Education Act 1990* set out in Schedule 4.

Clause 16 prevents anything done by or under the proposed Act from affecting any property interest or liability in or over significant public land, that existed immediately before the land was included in the Register.

Clause 17 provides for a review of the proposed Act.

Schedule 1 Register of significant public land

Schedule 1 contains the Register of significant public land.

Schedule 2 Provisions relating to trustees

Schedule 2 contains provisions relating to the trustees including the procedures for appointing a Chairperson, acting Chairperson and acting trustees, the terms of office of trustees, remuneration, vacancies in office, disclosure of pecuniary interests and liability of trustees.

Schedule 3 Provisions relating to procedure of Trust

Schedule 3 contains provisions relating to the procedure of meetings of the Trust, including the procedures for the calling and conducting a meeting, the quorum, the presiding trustee, voting at a meeting, the transaction of business in writing or by telephone and the keeping of minutes.

Schedule 4 Amendment of Education Act 1990 No 8

Schedule 4 [1] provides that if a government school is closed, all the public land on which the school was located immediately before its closure (including any structures that are fixtures on the land) is taken to be significant public land and the key purposes for which that land may be used are taken to be educational purposes. The site of a closed government school that is taken to be significant

public land under proposed Part 6A is a protected school site. A protected school site ceases to be taken to be significant public land only if:

- (a) after consultation with the local community, the Minister for Education grants an exemption in relation to the site, or
- (b) the Minister for Education establishes a government school on the site, or
- (c) a period of at least 20 years has passed since the closure of the government school that resulted in the site becoming a protected school site and at least 30% of the land within the protected school site is reserved or dedicated as public open space, or, in certain circumstances, for some other public purpose.

Nothing in the proposed Part prevents the Minister administering the *Public Lands Protection Act 2004* from inserting in the Register of significant public land, a description of land that is a protected school site, or part of such a site, or that is no longer a protected school site, or part of such a site.

Schedule 4 [2] amends Schedule 3 to the Act to enable the regulations to make provision for matters of a savings and transitional nature consequent on the amendment to the Act.

Schedule 5 Savings, transitional and other provisions

Schedule 5 contains provisions of a savings and transitional nature.