

## **Callan Park Trust Bill 2008**

### **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 Callan Park Trust and define its objects, functions and powers, and
- (b) to vest in the Trust the land known as Callan Park, and
- (c) to make ancillary and other provisions with respect to the Trust and the land vested in the Trust.

#### 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 a day 3 months after the date of assent, unless commenced sooner by proclamation.

**Clause 3** defines certain words and expressions used in the proposed Act.

### **Part 2 The Callan Park Trust**

**Clause 4** constitutes the Trust as a corporation. The Trust is to be subject to the control and direction of the Minister and be a statutory body representing the Crown.

**Clause 5** provides that the Trust is to consist of 10 trustees appointed or elected in the manner prescribed by the proposed section. Other provisions relating to the trustees and the procedure of the Trust are set out in Schedule 1 to the proposed Act.

**Clause 6** specifies the objects of the Trust. The objects are as follows:

- (a) to maintain and improve the Trust lands,
- (b) to encourage the use and enjoyment of the Trust lands by the public by promoting and enhancing the rehabilitative, historical, scientific, educational, cultural and environmental value of the land,
- (c) to maintain the right of the public to use the Trust lands,
- (d) to define and respect the usage rights of lessees of Trust lands,
- (e) to ensure the protection of the built and natural environment within the Trust lands,
- (f) to protect and guarantee public access to the existing open space on Trust lands.

**Clause 7** specifies the general functions of the Trust. These include:

- (a) making use of the Trust lands for various relevant activities, and
- (b) entering into arrangements to provide food or other refreshments on the Trust lands, and
- (c) such other functions as may be reasonably necessary for the attainment of the Trust's objects.

**Clause 8** empowers the Trust to establish committees to enable it to carry out its functions and to establish, control and manage branches or departments with respect to the Trust lands or any part of those lands.

**Clause 9** deals with reports and recommendations by the Trust to the Minister.

**Clause 10** provides that it is the duty of the Trust to engage in effective community consultation concerning the activities and policies pursued by the Trust. The procedure for community consultation is to include the establishment of a Community Consultative Committee.

### **Part 3 Property of the Trust**

**Clause 11** vests Callan Park (being the land described in Schedule 1 to the proposed Act) in the Trust. That land is not to be appropriated or resumed except by an Act of Parliament.

**Clause 12** prevents the Trust from selling, mortgaging or otherwise disposing of principal Trust lands and provides that any compulsory acquisition of trust lands may occur only by way of an Act of Parliament.

**Clause 13** provides that the Trust may, when acquiring property, agree to any condition not inconsistent with the objects of the Trust. The proposed section further provides that any duties payable under the *Duties Act 1997* are not to be charged to the Trust in respect of any gift, devise or bequest made to the Trust.

**Clause 14** provides that the Minister may approve of the disposal of property of the Trust despite any condition of acquisition to which the property may be subject.

**Clause 15** empowers the Trust (with the approval of the Minister) to grant leases, easements and licences in relation to the Trust lands. Except for specified leases to Rozelle Hospital and the Sydney College of the Arts, leases are not to have a term that, together with the term of any further leases granted pursuant to an option, exceeds 10 years.

### **Part 4 Plan of management**

**Clause 16** requires the Trust to prepare an initial plan of management for the Trust lands and the buildings on the Trust lands. The Minister may adopt, with or without alteration, such a plan or may refer the plan back to the Trust for further consideration.

**Clause 17** provides that the Minister is not to adopt a plan of management unless the local council for the area in which the Trust lands are situated has given its consent to the plan.

**Clause 18** provides that the Trust is to give effect to the plan of management as adopted by the Minister.

**Clause 19** requires the Minister to ensure that all of the Trust lands are the subject of a plan of management.

### **Part 5 Administration**

**Clause 20** provides that the Director is, subject to the control and direction of the Trust, responsible for the administration and management of the Trust lands and associated services.

**Clause 21** provides that the Trust may delegate any of its functions to the Director, trustee or member of staff of the Trust.

**Clause 22** provides that an annual endowment of such amount as Parliament approves, out of money provided by Parliament, is to be paid to the Trust by the Treasurer for the purpose of providing for the remuneration, if any, of trustees, the remuneration of persons employed under the proposed Act, and for the general operating expenses, including those related to the maintenance of the Trust lands or other

#### **Part 6 Miscellaneous**

**Clause 23** provides for the annual report of the Trust (as required under the *Annual Reports (Statutory Bodies) Act 1982*) to specify the uses to which the Trust lands have been put during each reporting year.

**Clause 24** enables an authorised officer to require persons to state their full name and residential address, or provide their driver's licence, in certain circumstances. Failing to comply with an authorised officers request is an offence punishable by a penalty not exceeding 10 penalty units.

**Clause 25** provides that when a person who is not the owner of a vehicle is alleged to have committed an offence, the owner of that vehicle must, when required to do so by an authorised officer, provide a written statement detailing the name and residential address of the driver. If required to do so by an authorised officer any other person must provide any information that may lead to the identification of the driver.

**Clause 26** provides that if a parking offence occurs on Trust lands' the owner of the vehicle is taken to have committed the offence unless they can establish that at the time of the offence the vehicle was being driven by another person. This may be achieved by establishing that the vehicle was stolen or being used illegally. A statutory declaration of the driver may be used to establish that the owner was not, at the relevant time, driving the vehicle.

**Clause 27** enables penalty notices to be issued for certain offences prescribed under the regulations. A penalty notice is a notice to the effect that, if the person served does not wish to have the matter determined by a court, the person may pay, within the time and to the person specified in the notice, the penalty prescribed by the regulations for the offence if dealt with under the proposed section.

**Clause 28** provides that, in the absence of evidence to the contrary, proof of certain matters is not required in any legal proceedings. These matters are listed in the proposed section.

**Clause 29** provides that proceedings for offences under the Act or regulations under the proposed Act are to be disposed of summarily before the Local Court. Such proceedings must be commenced within 12 months of the date on which the offence is alleged to have been committed.

**Clause 30** provides that when a corporation commits an offence under the Act or regulations the directors and other persons involved in the management of the company are taken to have committed the offence if they knew or authorised the act or omission constituting the offence.

**Clause 31** provides that where the Trust suffers loss as a result of an offence under the Act or regulations the Trust may seek compensation from the person convicted of the offence.

**Clause 32** enables the Trust to recover through a court of competent jurisdiction any money owing to it as a recoverable debt.

**Clause 33** enables the Governor to make regulations under the proposed Act. In particular, the regulations may make provision for or with respect to the use and enjoyment of the Trust lands, the care, control and management of the Trust lands, the determination and payment of fees for the use of certain parts of the Trust lands and for services as the Trust may provide. The regulations may create offences punishable by a penalty not exceeding 10 penalty units.

**Clause 34** is a formal provision giving effect to the amendments to the Acts and Regulations specified in Schedule 4.

**Schedule 1 Land vested in the Trust**

**Schedule 1** sets out the land vested in the Trust.

**Schedule 2 Provisions relating to the trustees**

**Schedule 2** sets out the provisions relating to the trustees.

**Schedule 3 Provisions relating to the procedure of the Trust**

**Schedule 3** sets out the provisions relating to the procedure and operation of the Trust.

**Schedule 4 Amendment of Acts and regulations**

**Schedule 4** contains amendments to various other Acts and regulations.