

Save the Graythwaite Estate Bill 2009

Explanatory note

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

Overview of Bill

The objects of this Bill are:

- (a) to require the Graythwaite Estate to be retained in public ownership and subject to public control, and
- (b) to preserve areas of open space at the Graythwaite Estate and to allow public access to such areas, and
- (c) to preserve the heritage significance of the Graythwaite Estate, and
- (d) to impose appropriate controls on the future development of the Graythwaite Estate.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides that the proposed Act is taken to have commenced on 10 September 2009 (being the date that notice for the introduction of the Bill for the proposed Act was given in the Legislative Council).

Clause 3 defines the term ***Graythwaite Estate*** by reference to a lot in a Deposited

Plan registered by the Registrar-General and also defines the terms ***development*** and ***environmental planning instrument***.

Clause 4 sets out the objects of the proposed Act in terms similar to those set out in the Overview above.

Clause 5 prohibits the sale or other alienation, or the encumbering, of the Graythwaite Estate or any part of it, but allows it to be transferred to a statutory body representing the Crown that is subject to the direction and control of a Minister.

Clause 6 provides that any lease of, or a licence allowing the use of, the Graythwaite Estate to a person other than a public or local authority must include terms that require the grounds of the Graythwaite Estate to always remain open to the public.

Clause 7 restricts the development that may be carried out at the Graythwaite Estate. Development for the purposes of health, educational or community facilities is permitted with the consent of North Sydney Council.

Clause 8 provides that the regulations under the proposed Act may set up a community consultation committee for the Graythwaite Estate.

Clause 9 authorises the Governor to make regulations for the purposes of the proposed Act.

Clause 10 prevents the proposed Act from affecting rights conferred by any easement, lease or licence that was in force immediately before the proposed Act commences.

Clause 11 makes it clear that the proposed Act binds the Crown in right of New South Wales and, in so far as the legislative power of the Parliament of New South Wales permits, the Crown in all its other capacities.

Clause 12 makes it clear that the proposed Act has effect despite certain decisions of the Supreme Court relating to the Graythwaite Estate.

Clause 13 makes it clear that the provisions of the proposed Act apply on and from 10 September 2009 (being the date that the proposed Act is taken to have commenced). The clause provides that any sale, transfer or other specified disposal of the Graythwaite Estate that occurred on or after 10 September 2009 but before the date of assent to the proposed Act, and that is contrary to the provisions of the proposed Act, is null and void. A contract voided by the clause may be held by a court to be frustrated at common law.