

c2016-105C
GRNS--The Greens

LEGISLATIVE COUNCIL

Crown Land Management Bill 2016

First print

Proposed amendments

- No. 1 **Ecologically sustainable development**
Page 2, clause 1.3 (c), line 22. Insert "in accordance with the principles of economically sustainable development" after "Crown land".
- No. 2 **Retention of commons**
Page 3, clause 1.4 (1), line 29. Omit all words on that line.
- No. 3 **Ecologically sustainable development**
Page 3, clause 1.4 (1). Insert after line 46:
ecologically sustainable development has the same meaning as in section 6 of the *Protection of the Environment Administration Act 1991*.
- No. 4 **Reservation for public purposes**
Page 11, clause 2.8 (1), line 28. Insert "public requirements or other public" after "more".
- No. 5 **Note about compliance with community engagement strategy**
Page 12, Division 2.4. Insert after line 10:
Note. The alteration or removal of a purpose for which Crown land is dedicated or reserved must comply with the requirements of any applicable community engagement strategy.
- No. 6 **Special provisions for Minister to grant relevant interests**
Page 12, clause 2.12, line 18. Omit "sections 2.18 and". Insert instead "section".
- No. 7 **Additional purposes for dedicated or reserved Crown land**
Page 12, clause 2.14 (2) (b), lines 28 and 29. Omit all words on those lines. Insert instead:
(b) is compatible with the purposes (the *existing purposes*) for which it is dedicated or reserved.
- No. 8 **Additional purposes for dedicated or reserved Crown land**
Page 12, clause 2.14 (3), lines 31 and 32. Omit "would not be likely to materially harm its use for an existing purpose". Insert instead "is compatible with the existing purposes".

No. 9 **Use of profits from dedicated or reserved Crown land**

Page 13, clause 2.17. Insert after line 33:

- (2) However, any profits made from using dedicated or reserved Crown land for commercial purposes, or charging fees for the use of the land, must be applied for the public purposes for which the land is dedicated or reserved.

No. 10 **Special provisions for Minister to grant relevant interests**

Pages 13 and 14, clause 2.18, line 35 on page 13 to line 34 on page 14. Omit all words on those lines.

No. 11 **Land claims made before Goomallee case**

Page 15, clause 2.19. Insert after line 27:

- (7) This section does not affect any land claim (within the meaning of the *Aboriginal Land Rights Act 1983*) made before 9 November 2012 (the date of the decision in *Minister Administering the Crown Lands Act v New South Wales Aboriginal Land Council (Goomallee Claim)* [2012] NSWCA 358).

No. 12 **Special provisions for Minister to grant relevant interests**

Page 16, clause 2.20 (7), line 6. Omit "Sections 2.18 and 2.19 do". Insert instead "Section 2.19 does".

No. 13 **Principles of Crown land management**

Page 20, Part 3. Insert at the end of line 9:

- , and
(e) require Crown land to be managed in accordance with certain principles of Crown land management.

No. 14 **Principles of Crown land management**

Page 20, Division 3.1. Insert after line 48:

3.2 Principles of Crown land management

- (1) Subject to any other requirements of this Act, Crown land is to be managed in accordance with the principles of Crown land management.
- (2) The *principles of Crown land management* are:
- (a) that environmental protection principles be observed in relation to the management and administration of Crown land, and
 - (b) that the natural resources of Crown land (including water, soil, flora, fauna and scenic quality) be conserved wherever possible, and
 - (c) that public use and enjoyment of appropriate Crown land be encouraged, and
 - (d) that, where appropriate, multiple use of Crown land be encouraged,
 - (e) that, where appropriate, Crown land should be used and managed in such a way that both the land and its resources are sustained in perpetuity, and
 - (f) that Crown land be occupied, used, sold, leased, licensed or otherwise dealt with in the best interests of the State consistent with the above principles.

No. 15 **Note about compliance with community engagement strategy**

Page 33, Division 3.6. Insert after line 18:

Note. The preparation of a plan of management under this Division must comply with the requirements of any applicable community engagement strategy.

No. 16 **Note about compliance with community engagement strategy**

Page 39, Division 4.2. Insert after line 34:

The vesting of land under this Division must comply with the requirements of any applicable community engagement strategy.

No. 17 **Local land criteria—specified in Act (Alternative A)**

Page 40, clause 4.6 (1) (d), lines 15 and 16. Omit all words on those lines. Insert instead:

- (d) the Minister is satisfied, having regard to the characteristics specified in subsection (2), that the land is suitable for local use.

No. 18 **Local land criteria—specified in Act (Alternative A)**

Page 40, clause 4.6 (2), lines 17 and 18. Omit all words on those lines. Insert instead:

- (2) Transferable Crown land is suitable for local use if it has the following characteristics:
 - (a) the land provides, or has the demonstrated potential to provide, a public good that is predominantly for the people of the local government area or immediately adjacent local government areas in a way that is consistent with any applicable environmental planning instruments, and
 - (b) the use of the land is consistent with the functions of local government or the land has the potential to be used for identified activities consistent with the functions of local government in a way that is consistent with any applicable environmental planning instruments, and
 - (c) the land is managed, or has the identified potential to be managed, as a community asset by local government or some other not for profit body, and
 - (d) the transfer of the land is consistent with protecting any social, environmental, cultural heritage or economic values identified under a relevant audit of the land, and
 - (e) any other kind of characteristic prescribed by the regulations.

No. 19 **Local land criteria—specified in the regulations (Alternative B)**

Page 40, clause 4.6 (1) (d), lines 15 and 16. Omit all words on those lines. Insert instead:

- (d) the Minister is satisfied, having regard to the criteria prescribed by the regulations, that the land is suitable for local use.

No. 20 **Local land criteria—specified in the regulations (Alternative B)**

Page 40, clause 4.6 (2), lines 17 and 18. Omit all words on those lines. Insert instead:

- (2) The regulations may make provisions for or with respect to the criteria to be applied in determining whether transferable Crown land is suitable for local use.
- (3) To avoid doubt, transferable Crown land cannot be transferred under this Division unless regulations for the purposes of subsection (2) are in force at the time.

No. 21 **Reclassification as operational land of Crown land vested in local councils**

Page 40, Division 4.2. Insert after line 40:

4.9 Local council cannot reclassify vested community land without consent of Crown land commissioner

- (1) This section applies to land vested under this Division that is taken under section 4.8 to have been acquired by a local council as community land.

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- (2) The local council cannot reclassify the land as operational land under the *Local Government Act 1993* unless a Crown land commissioner has given written consent for the reclassification.
 - (3) A Crown land commissioner may give written consent for the reclassification of the land as operational land only if the Commissioner considers that the reclassification is in the public interest.
 - (4) Before determining whether to give written consent, the Crown land commissioner must:
 - (a) consult with the local council and any other persons or bodies that the commissioner considers appropriate, and
 - (b) cause a notice to be published in the Gazette stating that written submissions may be lodged with the commissioner about the proposed reclassification not later than 28 days after the notice is published, and
 - (c) consider any submissions that were duly made.
 - (5) The Crown land commissioner must provide written reasons to a local council for giving, or refusing to give, written consent for a reclassification.

No. 22 **Income generated by Crown land vested in local councils**

Page 41, clause 4.9 (7), line 45. Insert “except for any part of that income that is required to be paid into the Public Reserves Management Fund” after “its vesting”.

No. 23 **Note about compliance with community engagement strategy**

Page 42, Division 4.3. Insert after line 17:

Note. The vesting of land under this Division must comply with the requirements of any applicable community engagement strategy.

No. 24 **Audit of Crown land**

Page 44, Part 5. Insert after line 7:

The sale, transfer, vesting, leasing or licensing of certain Crown land will not be permitted unless an audit of social, environmental, cultural heritage and economic values is first conducted.

No. 25 **Audit of Crown land**

Page 45, Part 5. Insert after line 17:

Division 5.2 Audit of Crown land

5.3 Crown land must be audited before certain dealings can occur

- (1) Auditable Crown land must be audited to assess its social, environmental, cultural heritage and economic values before any of the following dealings with the land (the *proposed dealing*) are undertaken:
 - (a) the sale or transfer of the land to, or the vesting of the land in, a person,
 - (b) the granting of a lease or licence over the land for a term of 2 years or more.
- (2) Crown land is *auditable Crown land* if:
 - (a) it is urban land with an area of more than one hectare, or
 - (b) it is non-urban land with an area of more than 5 hectares, or
 - (c) it has potential for containing significant social, environmental, cultural heritage or economic values.
- (3) The regulations may make provision for or with respect to the criteria to be applied for the purposes of subsection (2) in determining whether Crown land is auditable Crown land.

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- (4) The audit must be carried out by the Secretary.
 - (5) Without limiting section 12.3, the Secretary may delegate the Secretary's functions under this Act (except this power of delegation) to a Crown land manager.
 - (6) The results of the audit must be published in the Gazette at least 42 days before the proposed dealing comes into effect.
 - (7) The person undertaking the proposed dealing must ensure that provisions (for example, conditions, covenants or other restrictions) are applied to the dealing to make it consistent with the overall maintenance or enhancement of the land's social, environmental, cultural heritage and economic values.

No. 26 **Content of community engagement strategies**

Page 46, clause 5.6 (1). Insert after line 34:

- (e) a minimum period of at least 42 days for the community engagement concerned,
- (f) a requirement that any submissions that were duly made during the community engagement period must be taken into account before a dealing or other action affecting Crown land to which the strategy applies is undertaken,
- (g) a requirement that written reasons be made publicly available for any final decision about a dealing or other action affecting Crown land to which the strategy applies.

No. 27 **Note about compliance with community engagement strategy**

Page 47, Division 5.4. Insert after line 30:

Note. The sale of Crown land (except if required or permitted under the *Aboriginal Land Rights Act 1983*) must comply with the requirements of any applicable community engagement strategy.

No. 28 **Sale or disposal of Crown land in Western Division**

Page 47, clause 5.9 (1) (d), line 40. Omit "purposes, or". Insert instead "purposes."

No. 29 **Sale or disposal of Crown land in Western Division**

Pages 47 and 48, clause 5.9 (1) (e) and (f), line 41 on page 47 to line 5 on page 48. Omit all words on those lines.

No. 30 **Sale or disposal of Crown land in Western Division**

Page 48, clause 5.9 (2), lines 8–13. Omit all words on those lines. Insert instead:

- (2) The regulations may make provision for or with respect to the classification or identification of land for the purposes of subsection (1) (a), (b), (c) or (d).

No. 31 **Sale or disposal of Crown land in Western Division**

Page 48, clause 5.9 (3), lines 14–20. Omit all words on those lines.

No. 32 **Note about compliance with community engagement strategy**

Page 49, Division 5.5. Insert after line 35:

Note. The granting of a lease over Crown land (except a purchasable lease) must comply with the requirements of any applicable community engagement strategy.

No. 33 **Note about compliance with community engagement strategy**

Page 50, Division 5.6. Insert after line 23:

Note. The granting of a licence over Crown land must comply with the requirements of any applicable community engagement strategy.

No. 34 **Note about compliance with community engagement strategy**

Page 53, Division 5.7. Insert after line 1:

Note. The granting of a special purpose holding over Crown land (except a purchasable lease) must comply with the requirements of any applicable community engagement strategy.

No. 35 **Note about compliance with community engagement strategy**

Page 56, Division 5.8. Insert after line 30:

Note. The granting of an enclosure permit over Crown land must comply with the requirements of any applicable community engagement strategy.

No. 36 **Special provisions for Minister to grant relevant interests**

Page 65, clause 5.58 (3), lines 26–28. Omit all words on those lines.

No. 37 **Third party enforcement**

Page 111, Part 11. Insert after line 10:

Division 11.5 Restraint of contraventions

11.20 Remedy or restraint of contraventions of this Act or regulations

- (1) Any person may bring proceedings in the Land and Environment Court for an order to remedy or restrain a contravention of this Act or the regulations.
- (2) The proceedings may be brought whether or not proceedings have been instituted for an offence against this Act or the regulations.
- (3) The proceedings may be brought whether or not any right of the person has been or may be infringed by or as a consequence of the contravention.
- (4) The proceedings may be brought by a person on the person's own behalf or on behalf of another person (with their consent), or of a body corporate or unincorporate (with the consent of its committee or other controlling or governing body), having like or common interests in those proceedings.
- (5) Any person on whose behalf proceedings are brought is entitled to contribute to or provide for the payment of the legal costs and expenses incurred by the person bringing the proceedings.
- (6) If the Court is satisfied that a contravention has been committed or that a contravention will, unless restrained by order of the Court, be committed, it may make any orders that it thinks fit to remedy or restrain the contravention.
- (7) In this section:
contravention includes a threatened or apprehended contravention.

No. 38 **Note about compliance with community engagement strategy**

Page 117, Division 12.4. Insert after line 35:

Note. The preparation of a State strategic plan for Crown land must comply with the requirements of any applicable community engagement strategy.

No. 39 **Retention of commons**

Page 190, Schedule 7, lines 34–36. Omit all words on those lines.

No. 40 **Retention of commons**

Page 192, Schedule 7, line 43. Omit all words on that line.

No. 41 **Retention of commons**

Pages 198 and 199, Schedule 7, line 5 on page 198 to line 2 on page 199. Omit all words on those lines.

No. 42 **Retention of commons**

Page 200, Schedule 7, lines 1–36. Omit all words on those lines.

No. 43 **Retention of commons**

Page 205, Schedule 7, line 25. Omit “Council, and”. Insert instead “Council.”

No. 44 **Retention of commons**

Page 205, Schedule 7, lines 26 and 27. Omit all words on those lines.

No. 45 **Retention of commons**

Page 208, Schedule 8, line 3. Omit all words on that line.