CROWN LAND LEGISLATION AMENDMENT BILL 2017

First Reading

Bill introduced on motion by Mr Paul Toole, read a first time and printed.

Second Reading

Mr PAUL TOOLE (Bathurst—Minister for Lands and Forestry, and Minister for Racing) (16:31): I move:

That this bill be now read a second time.

The Crown Land Legislation Amendment Bill 2017 is the second and final bill that will implement the most significant improvements to the management of Crown land in a generation. The bill, together with the Crown Land Management Act 2016, fundamentally improve the management of Crown land and set New South Wales up for the future. These two pieces of legislation will help to ensure that the Crown estate continues to provide significant social, economic, environmental and cultural heritage benefits to the people of this State. Crown land is land that belongs to the State of New South Wales. It is owned and managed by the State for the people of New South Wales.

Crown land is one of New South Wales' most valuable assets. Our Crown land estate covers 42 per cent of New South Wales. It supports a rich and diverse portfolio of interests and activities, ranging from leases in western New South Wales, which support grazing and agricultural businesses, through to parks and reserves, beaches, waterways and the seabed in coastal areas, which provide vast social and environmental benefits for the people of this State. It is important that the Crown estate is managed effectively so that it continues to allow communities to prosper and to provide benefits for current and future generations. This Government has been working to improve the management of the Crown estate for the people of this State. It has consulted with the community every step of the way to understand what it wants from the land and to ensure the legislation reflects those views.

In 2012 the Government commissioned the Crown Lands Management Review, which was the first comprehensive review of Crown land in more than 25 years. As a result of this review, it became obvious that the Crown estate was no longer meeting community needs effectively. The review made a number of significant recommendations. A key recommendation was to consolidate multiple pieces of legislation into one, new, modern and simplified Act governing Crown land. As a companion to the review, in 2014 the Government published a Crown land legislation white paper. More than 600 submissions were received on the white paper and the review from a wide range of community organisations, councils, Aboriginal land councils and individuals.

In 2016 a parliamentary inquiry into Crown land was conducted. The inquiry provided a valuable opportunity for the committee and the Government to listen to the community about what it wanted and needed from Crown land. The inquiry made 20 wideranging recommendations. The New South Wales Government has accepted all those recommendations and is in the process of implementing them. That work culminated in the Crown Land Management Act 2016, which was passed by this House last year. As flagged in debate on that legislation, this bill completes the journey of delivering a robust and effective legislative regime for Crown land. The Crown Land Legislation Amendment Bill 2017 does not change the intent of the Crown Land Management Act 2016; it makes consequential changes to the Crown Land Management Act 2016 and other Acts to ensure that all legislation is consistent and correctly references the new Crown land legislation.

The bill also addresses the framework for Crown roads and streamlines and improves Crown road closure provisions. It will help to create a single, modern legislative framework for Crown land and Crown roads and reserves that will be easier to understand and it will increase community involvement in major decisions. It will not fundamentally change the Crown Land Management Act

2016, or any other Act for that matter. It also will not transfer any Crown land or Crown roads to councils or to any other third party. Importantly, it will not change the Aboriginal Land Rights Act 1983 or the application of the Commonwealth Native Title Act 1993 to State laws. The bill is about tidying up the legislation and finalising the consolidation process that began with the Crown Land Management Act 2016.

I turn now to the detail of the bill. The bill is divided into four schedules. Schedule 1 repeals the Public Reserves Management Fund Act 1987 and consolidates that legislation into the Crown Land Management Act 2016. The Public Reserves Management Fund is an important mechanism that provides funding for Crown reserves. It supports the maintenance of showgrounds, community halls, local parks, and reserves. It also funds improvements to recreational attractions such as holiday and caravan parks, State parks and walking trails, which are important contributors to local and regional economies. The Public Reserves Management Fund Program has provided more than $140 million in funding to support about 2,000 projects across New South Wales over the past 10 years. The bill retains that vital fund and enables it to continue to provide financial assistance to councils, community volunteers and corporations to invest in the reserves they manage.

To reduce complexity, the bill repeals the Public Reserves Management Act and replicates the provisions in the Crown Land Management Act 2016. It also renames the Public Reserves Management Fund the "Crown Reserves Improvement Fund" to describe more accurately and simply the purpose of the fund. Schedule 1 also includes some minor amendments to the provisions in the Crown Land Management Act 2016. These amendments demonstrate the Government's commitment to ensuring that its Crown land management arrangements are strong and, just as importantly, transparent.

The Government has undertaken an extensive process of consultation—first, in relation to the development of the Crown Land Management Act 2016 and, more recently, in relation to the supporting regulations. It was through this process that these amendments have been identified, allowing us to incorporate them before the Act commences later this year. In summary, this bill introduces important amendments to ensure that the implementation of the Crown Land Management Act 2016 is successful and that the arrangements in the Act strengthen community confidence in the management of Crown land.

Crown land can be reserved for a public purpose including for recreation, as cemeteries, for infrastructure or for government services. There are approximately 34,000 Crown reserves across the State. These are managed by a number of different entities, including local councils, community organisations, volunteer and professional trust managers and New South Wales government agencies. There are a number of significant Crown reserves across the State that are managed by a small number of professional reserve trusts. These include the trusts that manage cemeteries and crematoria, certain racetracks, Luna Park and the Sydney Cricket Ground. The professional trusts that manage these reserves are skills based, with paid board members, chief executive officers and staff and extensive assets.

Many of these trusts operate under their own pieces of legislation, such as the Cemeteries and Crematoria Act 2013, the Luna Park Site Act 1990 and the Sydney Cricket and Sports Ground Act 1978. Those pieces of legislation are inextricably linked to the Crown land legislation; they use the same concepts, defined terms and framework as the Crown land legislation. The Crown Land Management Act 2016 amended the Crown reserve trust and trust manager system to simplify the management structures, improve governance standards and reduce unnecessary administrative burden on Crown reserve trust managers. This bill now applies those changes to the range of Acts that refer to Crown reserves and trusts.

Schedule 2 to the bill makes consequential amendments to Acts that refer to Crown reserves and brings them in line with the reserve management framework under the Crown Land Management Act 2016. It is important to note that these amendments will not change or disturb the

existing arrangements for reserve managers or reserves such as cemeteries on Crown land but will streamline and update them in line with the Crown Land Management Act 2016. By doing so, this Government continues to recognise the critical role that those managers play as stewards for this land. There are approximately 500,000 hectares of Crown roads across New South Wales. However, many Crown roads across the State are paper roads; they are merely lines on a map and are unformed or unused. They were drawn up in a bygone era and are superfluous to today's needs. The current legislative framework for Crown road closures and maintenance is not as efficient or effective as it could be.

Schedule 3 to the bill modernises the legislative framework governing the closure, maintenance, transfer and sale of Crown roads. The Minister for Lands and Forestry is the roads authority for all Crown roads. Under this bill, Crown roads will remain the responsibility of the Minister for Lands. However, the existing arrangements around road closures create inefficiencies in road closure applications. Currently, responsibility for opening and closing most roads lies with the Minister, who administers the Crown land legislation, even where the local council is the road authority for the road. This means that all council road closures are initiated by local councils but require the approval of the Minister for Lands and Forestry. Having two authorities processing council road closures creates duplication, inefficiencies and time delays.

The bill addresses this by allowing local councils to close public roads for which they are the roads authority in their local area without requiring the approval of the Minister for Lands. This will allow councils to deal with local issues without encountering red tape and will reduce double handling by government agencies. The bill includes important safeguards to ensure a closure is appropriate and does not deny practicable access to a property, or an existing road network. The protections also continue to ensure that anyone affected by a proposed road closure has the right to be consulted and to provide a submission before a decision is made about the road closure. The bill also allows adjoining landholders and certain authorities the right to appeal to the Land and Environment Court against a council road closure decision. This provision provides an important avenue for adjoining landowners to challenge council road closures.

As I mentioned earlier, many Crown roads are not used by the general public and exist as lines on maps. In fact, many Crown roads are wholly enclosed within private properties or adjoin freehold property. Since 2004, landowners have been encouraged to purchase Crown roads within their properties. This allows landowners to consolidate their landholdings and improve security of tenure and allows the land to be managed to its full potential. However, the process of closing and selling Crown roads is lengthy and time-consuming. This process has been a longstanding issue with parts of the community. We heard it through the submissions to the Crown land legislation white paper and again through the recent parliamentary inquiry into Crown land.

Under the current legislation, the Department of Industry—Lands must follow the lengthy and time-consuming road closure process set out in the Roads Act 1993 for all Crown roads. This process becomes a particular issue when the road closure relates to a paper road that is not used for access by the general public. Over time, the road closure process has resulted in a large backlog of road closure and sale applications. To assist to address these issues, this bill streamlines the Crown road closure and sale process. Under the current road disposal framework, Crown roads must first be closed and converted into Crown land before being able to be sold or disposed of. This process will be simplified under the bill. Crown roads will not be required to be closed before they are sold to third parties.

The bill includes safeguards to ensure that appropriate consultation is conducted on the sale of Crown roads. Public consultation must occur if a Crown road is proposed to be sold. Under the bill, the public must be provided with at least 28 days to comment or to make a submission about the proposed sale of a Crown road. In addition, adjoining landowners must be individually notified of the proposed sale. A Crown road cannot be sold to a person who is not the owner of land adjoining

the Crown road or a public authority unless each adjoining landowner consents to the sale. The bill also allows for conditions to be placed on the sale of Crown roads. This process strikes the right balance between the need for community consultation on proposed disposals of Crown road and addressing time delays associated with road closures.

Many Crown roads provide lawful access to privately owned and leasehold lands where little or no subdivision has occurred since the early nineteenth century. Where a Crown road is not accessible to the general public and where there are legitimate health and safety issues, the Minister will be able to direct the users of the road to repair and maintain the road or pay the costs of the Department of Industry—Lands to do this. This power will be used cautiously and to ensure that the Crown road is safe for its users and so access is maintained. This will be limited to instances where the Crown road only provides access and is of benefit to a single property or a couple of private properties. This will provide for a more equitable approach to road maintenance, ensuring that those who have exclusive use of the road contribute to the cost of maintaining the road. As is the case currently, Crown roads that are used by the general public will be able to be transferred to Roads and Maritime Services or other authorities. This will allow Crown roads to be maintained to an appropriate standard for public access and by the bodies best equipped to maintain and upgrade them.

I turn to schedule 4 to the bill. This schedule makes cosmetic changes to a number of pieces of legislation. The amendments do not change the substance or intention of any of these Acts or instruments. They merely bring the language and terminology of existing legislation in line with the new Crown Land Management Act 2016. This bill is the product of over four years of extensive consultation with the community and key stakeholders. In 2012, we conducted the most comprehensive review of Crown land in New South Wales since colonisation. We sought the community's views on what the new Crown land legislation should involve and received over 600 submissions about various aspects of the legislation. We were then provided with another opportunity to listen to the community through the parliamentary inquiry into Crown land in 2016.

Along the way both the Government and the Department of Industry—Lands have been speaking with numerous stakeholders and community representatives. Together, these views and this consultation have woven the threads of the Crown Land Management Act 2016 that was passed by this House last year and now this bill. This has provided a rich evidence base about what the people of New South Wales want from their Crown land. This bill now completes this journey. It consolidates legislation that in some cases is more than a century old. It reduces red tape and streamlines administrative processes that have been stifling economic and land productivity for too long. It ensures Crown land is retained for a range of conservation and community purposes and, finally, it ensures that our Crown land can be managed effectively for the future of New South Wales. I commend the bill to the House.

Debate adjourned.