



New South Wales

Lake Macquarie Smelter Site (Perpetual Care of Land) Bill 2019

Explanatory note

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

Overview of Bill

The object of this Bill is to provide for the long-term management of contaminated land that was part of the site of the former Pasminco Cockle Creek Smelter at Lake Macquarie.

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.

Clause 3 defines certain words and expressions used in the proposed Act, including *former smelter site* which covers 4 lots of land that was part of the site of the former Pasminco Cockle Creek Smelter at Lake Macquarie.

Clause 4 defines *owner* for the purposes of the proposed Act as the Hunter and Central Coast Development Corporation (the *Development Corporation*) or, for land transferred to a government agency under Schedule 1, that government agency.

Part 2 Acquisition of site

Clause 5 vests the former smelter site in the Development Corporation and provides that no compensation is payable for that vesting except as provided by clause 6.

Clause 6 provides that the vesting of the former smelter site under the proposed Act is taken to be a compulsory acquisition under the *Land Acquisition (Just Terms Compensation) Act 1991* and that only Part 3 of that Act applies to the acquisition. That Part applies subject to certain modifications set out in the clause that relate to determining compensation for the acquisition.

Part 3 Management of site

Clause 7 provides that the owner of that part of the former smelter site that contains the containment cell and associated water treatment plant (the *containment cell site*) has the functions of monitoring, maintaining and repairing the containment cell and associated infrastructure and, when necessary, replacing all or part of the containment cell and associated infrastructure. The owner must exercise these functions in accordance with a management plan approved by the Secretary of the Department of Planning, Industry and Environment (the *Planning Secretary*) and the Environment Protection Authority.

Clause 8 provides that the owner of contaminated land forming part of the former smelter site other than the containment cell site has the function of managing the land to protect the environment and the public from any risk from contamination of the land. The owner must exercise this function in accordance with a management plan for the land approved by the Planning Secretary.

Clause 9 requires the owner of land that is part of the former smelter site (other than contaminated land) to facilitate the development of the land. To do this, an owner that is not a development corporation is given the functions of a development corporation under the *Growth Centres (Development Corporations) Act 1974*. The clause also permits the owner of land to sell the land, without first making the land available for public sale, to a party that had a contract to buy, or was negotiating with the owner to buy, land forming part of the former smelter site before it vested under the proposed Act.

Part 4 Miscellaneous

Clause 10 establishes a Containment Cell Perpetual Care Fund in the Special Deposits Account and specifies what is to be paid into the fund (including the proceeds of the sale by an owner of any part of the former smelter site) and what is to be paid from the fund (including amounts required to meet expenditure incurred by an owner in exercising its functions under the proposed Act).

Clause 11 provides that the Corporations legislation of the Commonwealth does not apply to the extent necessary to prevent an inconsistency with clauses 5, 6 and 10.

Clause 12 permits an owner or the Planning Secretary to delegate the exercise of functions under the proposed Act.

Clause 13 permits an owner to enter into an arrangement with a government agency under which the government agency is authorised to exercise functions of the owner under the proposed Act.

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

Schedule 1 Transfer of land

Schedule 1 provides for the transfer of land forming part of the former smelter site from one government agency to another. The transfer may be made by order of the Governor that amends the Schedule.

Schedule 2 Savings, transitional and other provisions

Schedule 2 authorises the making of savings and transitional regulations and includes other savings and transitional provisions consequent on the enactment of the proposed Act.