



New South Wales

Greater Sydney Parklands Trust Bill 2021

Explanatory note

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

Overview of Bill

The objects of this Bill are to—

- (a) constitute the Greater Sydney Parklands Trust (the *Trust*) as a corporation and NSW Government agency and provide for its functions, powers and obligations, including in relation to the Greater Sydney Parklands Trust estate, and
- (b) make amendments to certain other legislation.

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 sets out the objects of the proposed Act.

Clause 4 provides for the Dictionary in the proposed Act, Schedule 4 to define certain words and expressions used in the proposed Act.

Part 2 Constitution and management of Trust

Division 1 Constitution and management of Trust

Clause 5 constitutes the Trust.

Clause 6 provides that the Trust is a corporation and a NSW Government agency.

Clause 7 provides that the Trust is subject to the control and direction of the Minister in the exercise of its functions.

Division 2 Board of Trust

Clause 8 establishes the Board of the Trust as an advisory body for the Trust. The Board consists of the chief executive and 7 members appointed by the Minister, including a chairperson of the Board.

Clause 9 provides that, in appointing Board members, the Minister must ensure the Board, as a whole, has experience and skills in certain areas. The Minister must also have regard to the desirability of the Board having members with a diverse background.

Division 3 Powers of Trust

Clause 10 enables the Trust to delegate its functions to an authorised person, and, if authorised by the Trust, enables the authorised person to subdelegate a delegated function to another person.

Clause 11 provides that a function of the Trust may be exercised by any of the following—

- (a) the Trust,
- (b) a private subsidiary corporation,
- (c) the Trust or a private subsidiary corporation, or both, in a partnership, joint venture or other association with another person or body.

Clause 12 enables the Trust to establish a committee (the *Blue-Green grid committee*) to advocate for a long-term vision for and outcome of quality parklands across Greater Sydney and advisory committees to assist in the exercise of the Trust's functions or for the purposes of public consultation. Members of a committee may include representatives of government sector agencies and local councils, persons who have relevant expertise and other persons who are not Board members. The Trust or the committee is to decide the procedures in relation to meetings of a committee.

Division 4 Staff of Trust

Clause 13 provides that the chief executive of the Trust is responsible for the day-to-day management of the Trust. An act, matter or other thing done in the name of, or on behalf of, the Trust by the chief executive is taken to have been done by the Trust.

Clause 14 provides that staff may be employed in the Public Service to enable the Trust to exercise its functions.

Part 3 Functions of Trust

Division 1 General functions

Clause 15 sets out the general functions of the Trust and requires the Trust's annual report to include a report about the Trust's performance of its functions.

Clause 16 provides that, in addition to the Trust's functions under the proposed Act, the Trust has all the functions of a Trust constituted under the *Callan Park (Special Provisions) Act 2002*, *Centennial Park and Moore Park Trust Act 1983*, *Parramatta Park Trust Act 2001* and *Western Sydney Parklands Act 2006* (an *associated Trust*). The Trust may exercise the functions of an associated Trust in relation to all land owned or managed by the associated Trusts (the *associated Trusts estate*), including providing financial and operational management in accordance with the objects and functions of the associated Trusts under the following Acts, and regulations made under the Acts—

- (a) the *Callan Park (Special Provisions) Act 2002*,

- (b) the *Centennial Park and Moore Park Trust Act 1983*,
- (c) the *Parramatta Park Trust Act 2001*,
- (d) the *Western Sydney Parklands Act 2006* (the *associated Trusts legislation*).

Division 2 Functions about land

Clause 17 enables the Trust to acquire, by agreement or compulsory acquisition, and own new parks and supplementary land. Land acquired and owned by the Trust forms part of the Greater Sydney Parklands Trust estate (*GSPT estate*).

Clause 18 enables the Trust to acquire property by gift, devise or bequest and agree to carry out any conditions of the gift, devise or bequest.

Clause 19 enables the Trust to enter into an agreement with a government sector agency for—

- (a) the Trust to manage, maintain, improve or develop land of the agency for the purposes of parklands for the public or provide services or do other things for the management, maintenance, improvement or development of land of the agency for the purposes of parklands for the public, or
- (b) the agency to manage, maintain, improve or develop, or provide services or do other things for the management, maintenance, improvement or development of, the GSPT estate or part of the GSPT estate.

A function of the Trust or a government sector agency, or members of staff of the Trust or government sector agency, in relation to the management of the land may be delegated in certain circumstances. The Trust may subdelegate a function in certain circumstances.

Clause 20 enables the Trust to grant leases, licences or easements that are consistent with the objects of the proposed Act over land within the GSPT estate for up to 25 years. The Trust may only grant a lease, licence or easement over land within the GSPT estate for more than 25 years with the Minister's consent. The Minister's consent may be—

- (a) given in relation to—
 - (i) particular land or a class of land, or
 - (ii) a particular lease, licence or easement or a class of leases, licences, or easements, and
- (b) subject to conditions, and
- (c) amended from time to time.

The Trust must, as soon as practicable after granting a lease, licence or easement, give public notice about the lease, licence or easement in the way prescribed by regulations made under the proposed Act.

Clause 21 provides that the Trust must not sell, exchange or dispose of the GSPT estate or land within the GSPT estate.

Division 3 Planning

Clause 22 requires the Trust to ensure each associated Trust has, and gives effect to, a plan of management approved by the Minister (an *approved plan of management*) for the part of the associated Trusts estate for which the associated Trust is constituted. The Trust must also ensure the Trust has, and gives effect to, an approved plan of management for each park acquired and owned by the Trust under proposed Part 3, Division 2.

If an associated Trust gives a proposed plan of management to the Trust for submission to the Minister for approval, the Trust must ensure the proposed plan of management includes certain matters and complies with the requirements of the associated Trusts legislation. The Trust must also ensure appropriate consultation has been undertaken. The consultation must be consistent with the consultation and engagement framework prepared by the Trust and approved by the Minister under proposed Part 4, Division 1 (the *approved consultation and engagement framework*).

The Trust must submit the following to the Minister for the Minister's consideration—

- (a) if the Trust is satisfied with a proposed plan of management given to the Trust by an associated Trust—the proposed plan of management,
- (b) a proposed plan of management prepared by the Trust for each park acquired and owned by the Trust under proposed Part 3, Division 2.

The Minister may approve the plan of management with or without changes.

Clause 23 requires the following government sector agencies to consult with the Trust and have regard to submissions made by the Trust—

- (a) the Greater Sydney Commission, in exercising its function to lead metropolitan planning for Greater Sydney and in relation to a plan that relates to, or will impact on, open space and parklands policy within Greater Sydney,
- (b) a government sector agency or local council proposing to carry out development within, or that will substantially impact on, the GSPT estate and the associated Trusts estate (the *parklands estate*).

Clause 24 requires a consent authority to have regard to the impact of overshadowing on public open space if the consent authority is considering the making of a determination to grant development consent for development that will or may overshadow land within the GSPT estate.

Clause 25 clarifies that proposed Part 3, Division 3 does not authorise the use or development of land within the GSPT estate in contravention of another Act or law.

Division 4 Miscellaneous

Clause 26 enables the Minister to direct the Trust to arrange for any of its services to be provided, or activities to be carried out, by persons or bodies other than the Trust's staff. The Trust must comply with the Minister's directions.

Clause 27 enables the Trust to—

- (a) with the Minister's approval, form, or participate in the formation of, private subsidiary corporations, and
- (b) acquire interests in private corporations, and
- (c) sell or otherwise dispose of interests in private corporations.

However, the Minister's approval is required to acquire an interest in a private corporation or sell or otherwise dispose of interests in a private corporation in certain circumstances.

Part 4 Community consultation

Division 1 Consultation and engagement framework

Clause 28 requires the Trust to have an approved consultation and engagement framework for the parklands estate.

Clause 29 sets out the purpose of the consultation and engagement framework.

Clause 30 specifies certain matters that must be included in the consultation and engagement framework.

Clause 31 requires the Trust to consult and engage with the community and relevant stakeholders, and use current best practice principles for community consultation and engagement, in preparing the consultation and engagement framework.

Clause 32 requires the Trust to submit the consultation and engagement framework to the Minister for approval. The framework is of no effect until approved by the Minister.

Clause 33 provides that the approved consultation and engagement framework must be published on the Trust's website.

Clause 34 provides that the Trust may amend the approved consultation and engagement framework at any time by preparing and submitting the amendment for the Minister's approval in the same way as the consultation and engagement framework.

Clause 35 requires the Trust to review the approved consultation and engagement framework at least every 5 years.

Division 2 Community trustee boards

Clause 36 requires the Trust to establish at least 1 community trustee board. A community trustee board may be established for the whole of the parklands estate or a part of the parklands estate, including an individual park within the parklands estate.

Clause 37 provides for the membership of a community trustee board and requires members to agree to and sign a Code of Conduct approved by the Trust.

Clause 38 sets out the functions of a community trustee board.

Clause 39 provides that the Trust may, at any time, change the part of the parklands estate for which a community trustee board is established or dissolve a community trustee board.

Part 5 Finance

Clause 40 establishes a Greater Sydney Parklands Trust Fund (the *Fund*) in the Special Deposits Account. Within the Fund, there is to be a separate account for each associated Trust and each other park owned or managed by the Trust.

Clause 41 specifies the amounts that are to be paid into the Fund.

Clause 42 allows the Fund to be applied to meet expenditure incurred by the Trust in the exercise of its functions.

Clause 43 provides that the Trust may invest money in the Fund—

- (a) if the Trust is a GSF agency for the *Government Sector Finance Act 2018*, Part 6—in a way the Trust is permitted to invest money under that Part, or
- (b) if the Trust is not a GSF agency for the *Government Sector Finance Act 2018*, Part 6—in a way approved by the Minister with the agreement of the Treasurer.

The Trust has discretion to allocate money in the Fund to expenditure for the associated Trusts estate and the GSPT estate. Subject to the requirement to ensure there is adequate funding for each of the associated Trusts and the overall sustainability of the Trust and the associated Trusts, the Trust must ensure, in allocating money from a separate account in the Fund, priority is given to the associated Trust or park for which the separate account was established.

Part 6 Enforcement and legal proceedings

Division 1 Authorised officers

Clause 44 enables the Trust to appoint certain persons as rangers.

Clause 45 provides that rangers have the functions conferred by the proposed Act or regulations.

Clause 46 requires the Trust to issue each ranger with an identification card and specifies the information that must be included on the card. A ranger must, if asked by a person affected by the exercise of a function by the ranger, produce the ranger's identification card to the person.

Division 2 Offences

Clause 47 enables a ranger or a police officer (an *authorised officer*) who reasonably suspects a person of having committed an offence against the proposed Act or regulations to require the person to state the person's full name and residential address. An authorised officer may also require the driver of a vehicle on the GSPT estate to produce the driver's driver licence and state the driver's full name and residential address.

A person commits an offence against the proposed section if the person fails to comply with a requirement under the proposed section or, in purporting to comply with a requirement under the proposed section, states a name or residential address that is not the person's name or residential address. A person is not guilty of an offence against the proposed section unless it is established that the authorised officer warned the person that a failure to comply with a requirement of the proposed section is an offence.

Clause 48 enables an authorised officer, if a driver of a vehicle is alleged to have committed an offence against the proposed Act or regulations, to require certain persons to provide information relating to the driver. A person commits an offence if the person is required to provide information and fails, without a reasonable excuse, to comply with the requirement. It is a defence to a prosecution for an offence if the defendant satisfies the court the defendant did not know, and could not with reasonable diligence have ascertained, the required information.

Clause 49 enables certain offences to be dealt with by the issue of a penalty notice rather than through court proceedings. An authorised officer may issue a penalty notice to a person if it appears to the officer that the person has committed a penalty notice offence.

Clause 50 provides that, subject to certain exceptions, the owner of a vehicle at the time of an offence is guilty of an offence relating to a vehicle as if the person were the actual offender.

Clause 51 provides for the personal liability of a director of a corporation and other persons concerned in the management of the corporation if the person knowingly authorised or permitted an act or omission constituting an offence by the corporation against the proposed Act or regulations.

Division 3 Legal proceedings

Clause 52 provides for proceedings for offences against the proposed Act or regulations to be dealt with summarily before the Local Court.

Clause 53 specifies that proof of certain matters is not required in legal proceedings under the proposed Act unless evidence is given to the contrary.

Clause 54 provides that a charge, fee or other money due to the Trust under the proposed Act is recoverable by the Trust in a court of competent jurisdiction as a debt due to the Crown.

Clause 55 enables a court to order a person convicted of an offence against the proposed Act or regulations to pay compensation to the Trust if the court is satisfied the offence caused or resulted in loss or damage to the GSPT estate or other property of the Trust.

Part 7 Miscellaneous

Clause 56 excludes certain persons from personal liability for anything done or omitted to be done in good faith for the purposes of the proposed Act or associated Trusts legislation.

Clause 57 enables the Governor to make regulations for the purposes of the proposed Act.

Schedule 1 Constitution and procedure of Board

Schedule 1 contains provisions in relation to the constitution of the Board and procedures for Board meetings, including the transaction of the Board's business outside meetings.

Schedule 2 Constitution and procedure of community trustee board

Schedule 2 contains provisions in relation to the constitution of a community trustee board and procedures for meetings of a community trustee board, including the transaction of the community trustee board's business outside meetings.

Schedule 3 Savings and transitional provisions

Schedule 3 contains savings and transitional provisions consequent on the enactment of the proposed Act.

Schedule 4 Dictionary

Schedule 4 defines certain words and expressions used in the proposed Act.

Schedule 5 Amendment of other legislation

Schedule 5.1 amends the *Callan Park (Special Provisions) Act 2002*, including amendments in relation to the following matters—

- (a) the acquisition of the substratum or a part of Callan Park for a public purpose within the meaning of the *Land Acquisition (Just Terms Compensation) Act 1991*,
- (b) a power to grant certain longer-term leases over certain parts of Callan Park for purposes consistent with the objects of the Act and, for land owned by the Trust, the Trust's functions,
- (c) the Minister and the Trust giving priority to not-for-profit uses of Callan Park in making certain decisions,
- (d) the restriction of development at Callan Park,
- (e) requirements in relation to the community trustee board for Callan Park, if any, and consultation and engagement.

Schedule 5.2 amends the *Centennial Park and Moore Park Trust Act 1983*, including amendments in relation to the following matters—

- (a) the membership and financing of the Centennial Park and Moore Park Trust,
- (b) the delegation of the Centennial and Moore Park Trust's functions,
- (c) a requirement for the Centennial and Moore Park Trust to have, and give effect to, a plan of management for each park in the Centennial Park and Moore Park Trust lands,
- (d) requirements in relation to the community trustee board for the Centennial Park and Moore Park Trust lands, if any, and consultation and engagement,
- (e) the appointment, functions and identification requirements of authorised officers,
- (f) offences and legal proceedings,
- (g) the granting of leases, easements and licences over the Centennial Park and Moore Park Trust lands.

Schedule 5.3 amends the *Centennial Park and Moore Park Trust Regulation 2014* in relation to maps for certain non-parking areas.

Schedule 5.4 amends the *Parramatta Park Trust Act 2001*, including amendments in relation to the following matters—

- (a) the membership of the Parramatta Park Trust,
- (b) the acquisition of the substratum or a part of certain trust lands for a public purpose within the meaning of the *Land Acquisition (Just Terms Compensation) Act 1991*,
- (c) the vesting of certain land in the Parramatta Park Trust,
- (d) a requirement for the Parramatta Park Trust to have, and give effect to, a plan of management for the Parramatta Park Trust lands,
- (e) requirements in relation to a community trustee board for the Parramatta Park Trust lands, if any, and consultation and engagement,
- (f) the employment of staff and the delegation of the Parramatta Park Trust's functions.

Schedule 5.5 amends the *Western Sydney Parklands Act 2006*, including amendments in relation to the following matters—

- (a) the membership of the Board of the Western Sydney Parklands Trust,
- (b) a requirement for the Western Sydney Parklands Trust to have, and give effect to, a plan of management for each park within the Western Sydney Parklands,
- (c) requirements in relation to a community trustee board for the Western Sydney Parklands, if any, and consultation and engagement,
- (d) the use of part of the Western Sydney Parklands Trust land for the purposes of a cemetery or crematorium,
- (e) extending provisions relating to rangers to include police officers,
- (f) offences and legal proceedings.