

State Property Authority Bill 2006

Explanatory note

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

Overview of Bill

The objects of this Bill are:

- (a) to establish the State Property Authority (*the Authority*) as a statutory corporation representing the Crown, and
- (b) to set out the Authority's objectives and functions, which are principally to improve operational efficiencies in the use of properties of government agencies (being land or interests in land) and to manage, acquire and dispose of properties for the government and government agencies, and
- (c) to enable the Governor to transfer to the Authority specified property of a government agency by order published in the Gazette.

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 on a day or days to be appointed by proclamation.

Clause 3 defines certain words and expressions used in the proposed Act. In particular, the term *government agency* is defined to mean a public authority constituted by or under an Act, a statutory body representing the Crown and a Department of the Public Service (but does not include a State owned corporation, a local authority or any person or body exempted by the regulations) and *property* of a government agency is defined to mean land (including an interest in land) vested in the government agency, or vested in the Crown or Her Majesty and controlled and used by the government agency.

Part 2 Constitution and management of Authority

Clause 4 provides for the constitution of the State Property Authority as a corporation.

Clause 5 states that the Authority is a statutory body representing the Crown.

Clause 6 provides that the Authority is subject to the direction and control of the Minister.

Clause 7 provides that the Chief Executive Officer of the Authority is responsible for the management of the affairs of the Authority.

Clause 8 enables the Authority to delegate its functions to certain persons.

Clause 9 enables the Authority to exercise its functions through subsidiaries, or in a partnership, joint venture or other association with other persons or bodies.

Part 3 Objectives and functions of Authority

Clause 10 sets out the principal objectives of the Authority, including to improve operational efficiencies in the use of properties of government agencies, particularly generic properties (such as offices, warehouses, depots and car parks).

Clause 11 sets out the principal functions of the Authority, including to hold, manage, maintain, acquire or dispose of property for the government and government agencies.

Clause 12 enables a government agency to enter into an agreement with the Authority to hold property for the agency, to manage, maintain or dispose of property of the agency, to carry out, manage, co-ordinate or participate in the development of the property of the agency or to acquire any property on behalf of, or for the purposes of, the agency.

Clause 13 enables the Authority, with the consent of the Minister, to sell, lease, exchange or otherwise dispose of or deal with land. The clause also requires the Authority to maintain a register of land that is vested in it or managed by it.

Clause 14 enables the Authority to dedicate land for a public purpose or as a public road.

Clause 15 enables the Authority to acquire property by gift, devise or bequest.

Clause 16 enables the Authority, with the Minister's approval, to form and acquire interests in private corporations or to dispose of such interests.

Part 4 Transfers relating to property of government agencies

Clause 17 contains definitions used in the proposed Part.

Clause 18 provides for the transfer to the Authority of the property described in proposed Schedule 1. Unless otherwise specified in the proposed Schedule, the property is transferred subject to any existing trusts, interests, conditions and other restrictions. On transfer, the rights and liabilities of the previous owner of the property become the rights and liabilities of the Authority.

Clause 19 enables the Governor, by order published in the Gazette, to insert the description of any property of a government agency (including vacant Crown land) in proposed Schedule 1. The effect of such an order is to transfer the property to the Authority. However, property may not be transferred by such an order if it is land that is reserved or declared as a national park, historic site, state conservation area, regional park, nature reserve, karst conservation reserve or marine park, land that is acquired under Part 11 of the *National Parks and Wildlife Act 1974* or land that is reserved or dedicated under an Act for any purpose, being a reservation or dedication that can only be revoked by an Act. Land that is reserved under Part 5 of the *Crown Lands Act 1989* is also not capable of being transferred unless the Minister for Lands has given concurrence.

Clause 20 sets out the effect of a transfer of property under the proposed Part, including, for example, that it does not constitute a breach of contract.

Part 5 Miscellaneous

Clause 21 provides that no duty is payable under the *Duties Act 1997* in relation to the transfer of property under the proposed Act.

Clause 22 enables the Governor to make regulations for the purposes of the proposed Act.

Clause 23 is a formal provision that gives effect to the savings, transitional and other provisions set out in Schedule 2.

Clause 24 is a formal provision that gives effect to the amendments to the Acts set out in Schedule 3.

Clause 25 provides for the review of the proposed Act in 5 years.

Schedule 1 Property transferred to Authority

Schedule 1 will describe the properties that are transferred to the Authority.

Currently, no properties are included in the proposed Schedule.

Schedule 2 Savings, transitional and other provisions

Schedule 2 contains savings, transitional and other provisions consequent on the enactment of the proposed Act.

Schedule 3 Amendment of other Acts

Schedule 3.1 amends section 36 of the *Aboriginal Land Rights Act 1983* to ensure that a right under that section of an Aboriginal Land Council in relation to claimable Crown lands is not affected merely because the land is transferred to the Authority.

Schedule 3.2 amends section 104A of the *Native Title (New South Wales) Act 1994* to ensure that native title over any land that is transferred to the Authority by an order under proposed section 19 is not affected by the transfer.

Schedule 3.3 amends Schedule 2 to the *Public Finance and Audit Act 1983* to include a reference to the Authority. The amendment will have the effect of applying the general audit provisions of that Act to the Authority.