NSW Legislative Assembly Hansard

Crown Lands Legislation Amendment Bill

Extract from NSW Legislative Assembly Hansard and Papers Wednesday 25 May 2005.

Second Reading

Mr GRAHAM WEST (Campbelltown—Parliamentary Secretary) [10.40 a.m.], on behalf of Mr David Campbell: I move:

That this bill be now read a second time.

The Crown Lands Legislation Amendment Bill 2005 continues the Government's important reforms to the management of Crown land in the eastern and central divisions of New South Wales. Although many of the provisions—for example, those relating to the management of Crown reserves and covenants to protect the environment—apply in the Western Division, they do not affect leases under the Western Lands Act 1901. The Government is moving away from the old colonial office mentality of Crown land management, and bringing it in line with modern community expectations. Crown land is a valuable public asset and it is essential that it is managed wisely for the benefit of all. The strong and detailed reforms in this bill will put the management of Crown land on a more sustainable footing by slashing red tape; freeing up resources and providing greater flexibility in the day-to-day management of Crown land. They represent the most significant reform of the Crown land legislative framework in the State's history.

The Government's reforms commenced last year with the Crown Lands Legislation Amendment (Budget) Act 2004. This Act enshrined the principle of market rent to ensure the owners of Crown land—the people of New South Wales—get a fair and decent return on the private use of public land. We also embarked on the long-awaited overhaul of perpetual leases and the Crown road network. The Government believes that many of these parcels of lands are best managed privately. This consolidation of the Crown land estate will allow the Government to focus resources on the public lands most used by the community, such as community halls, recreation reserves, and showgrounds. The Crown reserve system consists of some 30,000 reserves across the State, many of which are managed by reserve trusts.

The bill proposes amendments to enable a more flexible and more accountable approach to Crown reserve management. Many reserve trust managers are volunteers. This has served the State well for many years, and we are greatly indebted to these volunteers. However, modern commercial skills and imperatives, and other issues such as public liability, place a great strain on the capacity of many of these trusts. The bill will provide these volunteer trust managers with a greater choice of management models. Through the creation of management committees, volunteers can still be involved in the vital day-to-day management of the reserve, but with the support of the department or other trust managers taking on the legal responsibility and associated liability. It is hoped that this initiative will encourage more people to volunteer their time and skills to help to manage our great Crown reserves. The bill will enable reserve trust managers to delegate their functions with ministerial approval.

The Minister will also be able to appoint different reserve trust managers to address different reserve management issues on the one reserve. As I mentioned earlier, in addition to providing greater flexibility in the management of reserves, this bill also ensures greater accountability of those managing reserves on the public's behalf. Reserve trusts currently submit annual reports, however the reporting period and the information reported on varies between trusts. This bill enables the Minister to standardise reporting dates and establish specific criteria against which the performance of trusts will be measured. An on-line reporting document will be made available to enable quick identification and analysis of problems and concerns that trust managers might have. Currently, members of reserve trust boards drawn from the community are appointed for a period of up to five years, but corporate trust managers are appointed indefinitely. In many cases, the indefinite appointment of corporate trust managers, such as local councils, is appropriate, because it enables long-term planning. However, although the Minister may terminate the appointments at any time, we are keen to avoid any possibility of complacency or lack of accountability. For this reason, the bill provides that corporate trust managers may be appointed for a fixed term.

The Government wants to reduce bureaucracy and provide local councils with more responsibility for the care and control of the reserves they manage. This is consistent with the autonomy that local councils have in dealing with community land under the Local Government Act. At present, the Minister is required to consent to almost every lease and licence made for a reserve. This bill will slash red tape by allowing the Minister to authorise local councils acting as reserve trust managers to grant leases, licences and related easements over Crown reserves that they manage in certain circumstances, without the need to obtain ministerial consent. The Minister can revoke this authorisation at any time, and retains the power to review any council decision if necessary. It makes sense that, if a reserve trust is authorised to enter into leases and licences, they also carry

the associated risks. Councils acting as reserve trust managers will be required to indemnify the Crown against any liability or compensation claim arising from actions undertaken without the Minister's approval.

The bill also proposes greater flexibility in the types of activities permissible on Crown reserves. Currently, the public purpose for which Crown land is reserved or dedicated restricts the use that can be made of the land. Examples of public purposes that land is currently reserved for include public recreation, local Government purposes, public hall, tennis court, museum, baby health clinic, wharf purposes, caravan park, camping, and so on. This purpose states the main reason why land was set aside for the public. Yet in many cases, the reserve may be very large, and the facility provided may use only a small section of the land. Some dedications were set in stone over a century ago, and may not reflect modern community needs. Yet unless a use of the reserve is closely aligned with the purpose, it is not permitted. Sometimes the reserve purpose is unnecessarily restrictive. For example, if land had been reserved for wharf purposes, a boat hire business may be permitted near or on the wharf, and a cafe for wharf users would be permitted; but a general store or tourist information centre may not be.

The bill is very clear, however, that additional uses of land can only be approved when they are in the public interest. Additional uses are to be authorised through a plan of management developed by the reserve trust, and adopted by the Minister. This ensures that any additional use is in keeping with the plan for the overall management of the reserve. The Minister is under no obligation to allow additional uses to occur, and must consider whether any additional use is in the public interest. Where a reserve trust proposes that additional uses are authorised through a plan of management, the Minister can require the trust to indemnify the Government against any liability or compensation claim arising from the additional use made of the reserve. The Minister will also be able to authorise additional uses for a reserve, outside of a plan of management, provided the Minister is satisfied the use is compatible with the existing purpose, consistent with the principles of Crown land management, and in the public interest. These changes will provide greater flexibility for reserve trust managers to more appropriately meet the changing needs of the community.

Currently, the Minister can grant leases and licences over a Crown reserve when there is no appointed reserve trust manager. However, if a reserve trust is in place, the Minister is only able to grant licences. Some proposals requiring leases or licences to be granted on reserves may be so complex that reserve trust managers may not have the skills or capacity to manage the associated risks. In these cases, it may be more appropriate that the Minister grant the lease or licence directly. In doing so, the Minister must consult with any appointed reserve trust manager or other relevant Minister. Further, the Minister for Lands must be satisfied that it is in the public interest; and have due regard to the principles of Crown land management

The Government is committed to maintaining high environmental standards in dealing with the conversion of perpetual leases. The Government has already provided for covenants to be placed on converted perpetual leases to protect environmental values, and it has already placed a blanket ban on subdivision for converted perpetual leases. This bill now ensures that any covenants or restrictions on subdivision rest with the title of the land. This means that the covenant will remain, even if the land is sold. In addition, any environmental covenants imposed by the Minister will be protected from being overridden by Local Environment Plans under Section 28 of the Environmental Planning and Assessment Act. The power to impose covenants and the protection of those covenants will be extended to the sale of any Crown land.

This bill will also afford similar protections for environmental agreements with landholders under the National Parks and Wildlife Act and the Nature Conservation Trust Act. Some perpetual leases have important stands of remnant vegetation that need to be protected. Building on the current protections, the bill will require, for perpetual leases converted to freehold under the 2004 special purchase arrangements, the concurrence of the Minister for the Environment before a restriction preventing subdivision is lifted. The concurrence of the Minister for the Environment will also be required in the lifting of a covenant placed on converted perpetual leases in or adjoining an identified wilderness area, or adjoining a national park. In order to ensure compliance, the bill provides for authorised inspectors to enter and inspect Crown land under tenure, or private land that is subject to a covenant, for the purposes of monitoring and reviewing the environmental protection measures.

In line with the principle of market rent for the private use of public land, the bill ensures that all Crown land tenures are treated in a similar way in terms of rent redeterminations and CPI adjustments. In keeping with last year's IPART review into domestic waterfront tenancies, the bill provides for a rebate to be given to water access-only residents. It also allows councils that provide facilities such as jetties and wharves for the community without charge to receive a rent rebate. The bill enables the Government to deal more effectively with situations where there may be multiple users of facilities located on Crown land by providing for the creation of sub-licences over Crown land. Another important reform is allowing licences to be transferable. This will again slash red tape and provide a better product for Crown land clients.

Finally, the bill overhauls the outdated legislation governing schools of arts and mechanics' institutes. These were established many years ago to provide a venue for the intellectual improvement of workers and other members of the community. However, these institutes have largely moved on from their original purposes, and many are in a state of disrepair. There may be as few as 60 institutes continuing to operate under the Trustees

of the Schools of Arts Enabling Act 1902. Many of the trustees of these institutes may experience difficulty in complying with this outdated legislative framework. There is also a very real potential for lack of accountability, because there is no requirement for the trustees of schools of arts to report on what they are doing.

This bill provides a simple way forward in managing these valuable community assets. It provides the opportunity for trustees responsible for schools of arts to voluntarily transfer the ownership and management of the institute to either the State or local government for management for community purposes. The bill makes it possible for the community to decide what happens to these assets and ensure, if possible, that the assets continue to be used for public purposes. Where there are no remaining trustees or members of the institute with legal capacity to enter into such an agreement, the transfer may proceed, provided the responsible Minister is satisfied that the transfer is in the interests of the general public and the local community.

In conclusion, the Crown Lands Legislation Amendment Bill 2005 provides a commonsense approach to the management of Crown land in New South Wales. It cuts red tape, introduces greater flexibility and helps deliver better services and facilities for the people of New South Wales. The Carr Government has an active and ongoing commitment to improving the sustainable management of the Crown land estate in New South Wales—for this and future generations. The strong and detailed reforms in this bill help secure this future. I commend the bill to the House.