

Property NSW Amendment Bill 2024

Contents

| | | | Page |
|------------|---|---|------|
| | 1 | Name of Act | 2 |
| | 2 | Commencement | 2 |
| Schedule 1 | | Amendment of Property NSW Act 2006 No 40 | 3 |
| Schedule 2 | | Consequential amendments of other legislation | 9 |

This public bill which originated in the Legislative Assembly, has passed and is now ready for presentation to the Legislative Council for its concurrence.

Clerk of the Legislative Assembly. Legislative Assembly, Sydney,

, 2024



New South Wales

Property NSW Amendment Bill 2024

Act No , 2024

An Act to make miscellaneous amendments to the *Property NSW Act 2006*; and to make consequential amendments to other legislation.

EXAMINED

Speaker

| The Legislature of New South Wales enacts— | | 1 |
|--|---|---|
| 1 | Name of Act | 2 |
| | This Act is the Property NSW Amendment Act 2024. | 3 |
| 2 | Commencement | 4 |
| | This Act commences on the date of assent to this Act. | 5 |

| Scl | nedule 1 | Amendment of Property NSW Act 2006 No 40 | 1 |
|-----|------------------------------|---|--------------|
| [1] | Section 1 N | ame of Act | 2 |
| | Insert "and I | Development" after "Property". | 3 |
| [2] | Section 3 D | efinitions | 4 |
| | | a 3(1), definition of <i>Property NSW</i> . Insert in alphabetical order— contaminated land has the same meaning as in the <i>Waste Assets Management Corporation Act 2010</i> . | 5 6 7 |
| | | <i>private corporation</i> means a corporation within the meaning of the <i>Corporations Act 2001</i> of the Commonwealth formed in or outside New South Wales. | 8 9 10 |
| | | <i>private subsidiary corporation</i> means a private corporation in which Property and Development NSW has a controlling interest. | 11 12 |
| | | Property and Development NSW means Property and Development NSW constituted by section 4. | 13 14 |
| | | Note— See the <i>Interpretation Act 1987</i> , section 53(1), which provides for the effect of the alteration of the name of a body. | 15 16 |
| | | wholly owned subsidiary corporation means a private corporation in which Property and Development NSW is the only shareholder. | 17 18 |
| [3] | Parts 2 and | 3, headings | 19 |
| | Insert "and l | Development" after "Property" wherever occurring. | 20 |
| [4] | Sections 4, 15(1)–(3), 16 | 6, 7(1) and (2), 7A, 8(1)–(4)(a), 9, 10, 11(1)–(3), 12(1)–(4), 13(1) and (3), 6(2), 20(5), 21A(2), (3), (5), (7) and (8) | 21 22 |
| | Insert "and I | Development" after "Property" wherever occurring, including the headings. | 23 |
| [5] | Section 5 | | 24 |
| | Omit the sec | tion. Insert instead— | 25 |
| | 5 Prope | erty and Development NSW represents the Crown | 26 |
| | | Property and Development NSW is a statutory body representing the Crown. | 27 |
| [6] | Sections 8 a | and 12, headings | 28 |
| | Insert "and l | Development" after "Property" wherever occurring. | 29 |
| [7] | Section 8 | | 30 |
| | Omit section | 8(4)(b). Insert instead— | 31 |
| | | (b) a person, or a class of persons— | 32 |
| | | (i) approved by the Minister, or | 33 |
| | | (ii) prescribed by the regulations. | 34 |
| [8] | Section 9, h | - | 35 |
| | • | te subsidiaries, joint ventures". | 36 |
| | Insert instead | d "wholly owned subsidiaries, private subsidiaries". | 37 |
| [9] | Section 9(a | | 38 |
| | Insert after s | ection 9(a)— | 39 |

| | (al | l) by a wholly owned subsidiary corporation, or | 1 |
|------|------------------|--|----------------------|
| [10] | Section 9(b) | | 2 |
| | Omit "(within | the meaning of section 16)". | 3 |
| [11] | Section 10(b1 |) | 4 |
| | Insert after sec | tion 10(b)— | 5 |
| | (b1 | | 6 |
| | | (i) accords with best practice environmental and planning standards, and | 7 8 |
| | | (ii) is environmentally sustainable, and | 9 |
| | | (iii) applies innovative environmental building and public domain design, | 10 11 |
| [12] | Section 11 Fu | nctions—generally | 12 |
| | Insert after sec | tion 11(1)(b)— | 13 |
| | (b1 | to design workspaces for use by the government or government agencies, including the fit-out of the workspaces, | 14 15 |
| [13] | Section 11(1)(| (c) | 16 |
| | Insert "for the | government" after "operational expenses". | 17 |
| [14] | Section 11(1)(| (d1) and (d2) | 18 |
| | Insert after sec | tion 11(1)(d)— | 19 |
| | (d1 | to develop, hold and manage information technology relating to land-use analysis or the management, maintenance or improvement of land, including providing access to the technology by government agencies and other persons, whether or not on payment of a fee, | 20 21 22 23 |
| | (d2 | | 24 |
| | , | (i) government agencies under section 12, or | 25 |
| | | (ii) government agencies or other persons in relation to property vested in, or otherwise held or managed by, Property and Development NSW, | 26 27 28 |
| [15] | Section 11(1A | () | 29 |
| | Insert after sec | tion 11(1)— | 30 |
| | | Vithout limiting subsection (1)(a), Property and Development NSW's unctions include the following— | 31 32 |
| | (a | to enter into agreements, including leases and licences, for the use of land and buildings by the government and government agencies, | 33 34 |
| | (b | to acquire property so that Property and Development NSW may carry out development, including development that is environmentally sustainable, | 35 36 37 |
| | (0 | to acquire, hold and manage contaminated land for a purpose referred to in paragraph (d), | 38 39 |
| | (c | relation to contaminated land acquired, held or managed by Property and Development NSW— | 40 41 42 |
| | | (i) the remediation of the land, | 43 |

| | | | | (ii) | the use or development of the land, | 1 |
|------|-------|---------|---------------|--------------|---|----------------------|
| | | | | (iii) | activities that relate to or are incidental to the remediation, use or development of the land. | 3 |
| [16] | Sect | ion 11 | Α | | | 4 |
| | Inser | t after | section | n 11— | | 5 |
| | 11A | Requ | uireme | ents in | relation to particular leases | 6 |
| | | (1) | build | ling wi | d Development NSW may enter into a lease in relation to a relevant the a lessee that is not a government agency only if the area the ne lease will be used under the lease for a purpose that— | 7 8 9 |
| | | | (a) | is not uses, | inconsistent with, or is complementary to, the building's existing and | 10 11 |
| | | | (b) | deliv | ers benefits to the State. | 12 |
| | | (2) | that relev | is not a | and Development NSW enters into a long-term lease with a lessee a government agency, whether or not the lease is in relation to a lding, Property and Development NSW must publish notice of the Gazette— | 13 14 15 16 |
| | | | (a) | withi | n the period prescribed in the regulations, or | 17 |
| | | | (b) | | eriod is not prescribed in the regulations—not later than 14 days entering into the lease. | 18 19 |
| | | (3) | In th | is secti | on— | 20 |
| | | | _ | | ease means a lease with an original term of more than 20 years. ilding means a commercial building— | 21 22 |
| | | | (a) | owne | d by Property and Development NSW, and | 23 |
| | | | (b) | used | for the purpose of providing offices for government agencies. | 24 |
| [17] | Sect | ion 13 | Land | dealin | gs | 25 |
| | Inser | t after | section | n 13(1) | | 26 |
| | | (1A) | | | d Development NSW may dispose of or deal with land under (1) only for the following purposes— | 27 28 |
| | | | (a) | | achievement of Property and Development NSW's principal tives under section 10, | 29 30 |
| | | | (b) | the expart. | xercise of Property and Development NSW's functions under this | 31 32 |
| [18] | Sect | ion 14 | Α | | | 33 |
| | Inser | t after | section | n 14— | | 34 |
| | 14A | Com | pulso | ry acq | uisition of land | 35 |
| | | (1) | comp | pulsory | nd Development NSW may acquire land, by agreement or process, under the <i>Land Acquisition (Just Terms Compensation)</i> or the following purposes— | 36 37 38 |
| | | | (a) | | achievement of Property and Development NSW's principal stives under section 10, | 39 40 |
| | | | (b) | the en | xercise of Property and Development NSW's functions under this | 41 42 |

| | | (2) | corpo | wooid doubt, subsection (1) does not authorise a private subsidiary pration to acquire land, by agreement or compulsory process, under the Acquisition (Just Terms Compensation) Act 1991. | 1 2 3 |
|------|-------|--------|-----------------------|--|----------------------------|
| [19] | Secti | ons 1 | 5A and | d 15B | 4 |
| | Inser | after | section | n 15— | 5 |
| | 15A | Deali | ing wit | th land subject to Crown lease | 6 |
| | | (1) | | section applies if land subject to a lease under the Crown Land agement Act 2016— | 7 8 |
| | | | (a) | is vested in Property and Development NSW by an order under section 19, and | 9 10 |
| | | | (b) | the order specifies that the land continues to be subject to a lease. | 11 |
| | | (2) | On th | ne vesting of the property in Property and Development NSW, the lease— | 12 |
| | | | (a) | ceases to be a lease under the Crown Land Management Act 2016, and | 13 |
| | | | (b) | becomes a lease between the lessee and Property and Development NSW on the same terms as were in force immediately before the vesting. | 14 15 16 |
| | | | | Note — See the <i>Native Title</i> (<i>New South Wales</i>) <i>Act 1994</i> , section 104A, which provides that certain acts under this Act do not extinguish native title rights and interests, and the <i>Aboriginal Land Rights Act 1983</i> , section 36, which provides for claims to Crown lands by the New South Wales Aboriginal Land Council and Local Aboriginal Land Councils. | 17 18 19 20 21 |
| | | (3) | instru <i>Land</i> | the purposes of subsection (2)(b), a reference in the lease, or another ament in relation to the lease, to the Minister administering the <i>Crown Management Act 2016</i> is taken to be a reference to Property and clopment NSW. | 22 23 24 25 |
| | 15B | Who | lly ow | ned subsidiary corporations | 26 |
| | | (1) | estab | erty and Development NSW may, with the approval of the Treasurer, lish wholly owned subsidiary corporations to hold property for Property Development NSW. | 27 28 29 |
| | | (2) | A wh | nolly owned subsidiary corporation is— | 30 |
| | | | (a) | a statutory body representing the Crown, and | 31 |
| | | | (b) | is subject to the direction and control of Property and Development NSW. | 32 33 |
| [20] | Secti | on 16 | Privat | te subsidiary corporations etc | 34 |
| | Omit | sectio | n 16(1 |). | 35 |
| [21] | Secti | on 17 | Defini | itions | 36 |
| | Omit | the de | finitio | n of <i>transfer date</i> . Insert instead— | 37 |
| | | | trans | fer date—see section 19(1A). | 38 |
| [22] | Secti | on 18 | Trans | fer of property described in Schedule 1 to Property NSW | 39 |
| | Omit | the se | ction. | | 40 |
| [23] | Secti | on 19 | | | 41 |
| | Omit | sectio | n 19, h | neading and subsection (1). Insert instead— | 42 |

| 19 | Tran | sfer o | f property to Property and Development NSW | 1 |
|------|-----------|---------|--|----------------------------|
| | (1) | | Minister may, by order published in the Gazette, transfer property ified in the order to Property and Development NSW. | 2 |
| | (1A) | secti | erty transferred to Property and Development NSW by an order under this on vests in Property and Development NSW on the later of the following a (the <i>transfer date</i>)— | 4 5 6 |
| | | (a) | the date the order is published in the Gazette, | 7 |
| | | (b) | the date specified in the order. | 8 |
| | (1B) | Deve | erty specified in an order under this section vests in Property and elopment NSW for an estate in fee simple, or another interest specified in order— | 9 10 11 |
| | | (a) | without the need for further conveyance, transfer, assignment or assurance, and | 12 13 |
| | | (b) | subject to any trusts, estates, interests, dedications, conditions, restrictions and covenants to which the land was subject immediately before the transfer date. | 14 15 16 |
| | (1C) | On tl | he transfer date for the property, the following have effect— | 17 |
| | | (a) | the rights and liabilities of the transferor in relation to the property become the rights and liabilities of Property and Development NSW, | 18 19 |
| | | (b) | all proceedings relating to the property commenced but not finished immediately before the transfer date are taken to be proceedings by or against Property and Development NSW, | 20 21 22 |
| | | (c) | an act, matter or thing done or omitted to be done in relation to the property before the transfer date by or in relation to the transferor is, to the extent the act, matter or thing continues to have force or effect, taken to have been done or omitted to be done by, to or in relation to Property and Development NSW, | 23 24 25 26 27 |
| | | (d) | subject to the regulations, a reference in an Act, an instrument made under an Act or another document to the transferor or a predecessor of the transferor is, to the extent the reference relates to the property or the rights or liabilities of the transferor, taken to be or to include a reference to the transferee. | 28 29 30 31 32 |
| Sec | tion 19 | (2) and | d (3) | 33 |
| Omi | it "inclu | ided in | Schedule 1 by" wherever occurring. | 34 |
| Inse | rt instea | ad "tra | nsferred to Property and Development NSW by an". | 35 |
| Sec | tion 19 | (2) | | 36 |
| | | | section 18(1)(b), this". Insert instead "This". | 37 |
| Sec | tion 21 | A Lan | d register of GSF agency property | 38 |
| Omi | t sectio | n 21A | (1). | 39 |
| Sec | tion 21 | A(2A) | | 40 |
| | | | n 21A(2)— | 41 |
| | (2A) | | subsection (2)(e)(i), the valuation of the current market value of the land be prepared in accordance with— | 42 43 |
| | | (a) | any Treasurer's directions that are applicable, and | 44 |

[24]

[25]

[26]

[27]

| | | (b) | any applicable policy of the Secretary of the department in which the Government Sector Finance Act 2018 is administered. | 1 |
|------|--------------|---------------------|---|----------|
| [28] | Section 21 | A(6) a | nd (6A) | 3 |
| | Omit section | n 21A | a(6). Insert instead— | 4 |
| | (6) | Prop | perty and Development NSW may ask the Valuer-General to— | 5 |
| | | (a) | provide advice on the details in the register under subsection (5) or any other matter under this section, or | 6 |
| | | (b) | conduct a valuation mentioned in subsection (2)(e)(i) and provide the valuation to Property and Development NSW. | 8 |
| | (6A) | If Pro | operty and Development NSW makes a request under subsection (6)(b)— | 10 |
| | | (a) | the request must be in the form approved by the Valuer-General, and | 11 |
| | | (b) | a fee determined by the Valuer-General is payable, by the GSF agency that owns or occupies the land, for the valuation. | 12 13 |
| [29] | Section 21 | A(10) | | 14 |
| | Insert after | section | n 21A(9)— | 15 |
| | (10) | In th | is section— | 16 |
| | | GSF 2018 | Tagency has the same meaning as in the Government Sector Finance Act 3. | 17 18 |
| | | Publ Fina | lic Service agency has the same meaning as in the Government Sector ance Act 2018. | 19 20 |
| | | | surer's directions has the same meaning as in the Government Sector ance Act 2018. | 21 22 |
| [30] | Schedule ' | 1 Prop | perty transferred to Property NSW | 23 |
| | Omit the so | hedule | e. | 24 |

| Scr | nedule 2 Consequential amendments of other legislation | 1 |
|-----|---|----------|
| 2.1 | Aboriginal Land Rights Act 1983 No 42 | 2 |
| [1] | Section 36 Claims to Crown lands | 3 |
| | Omit "the State Property Authority" in section 36(16), (17) and (18), wherever occurring. | 4 |
| | Insert instead "Property and Development NSW". | 5 |
| [2] | Section 36(17)(a) | 6 |
| | Omit "State Property Authority Act 2006". | 7 |
| | Insert instead "Property and Development NSW Act 2006". | 8 |
| 2.2 | Criminal Procedure Regulation 2017 | 9 |
| | Schedule 3 NSW Government agencies and statutory bodies required to pay court fees | 10 11 |
| | Omit "Property NSW". Insert instead "Property and Development NSW". | 12 |
| 2.3 | Crown Land Management Act 2016 No 58 | 13 |
| | Section 4.11 Application of Division | 14 |
| | Omit "Government Property NSW Act 2006" from section 4.11(2)(b). | 15 |
| | Insert instead "Property and Development NSW Act 2006". | 16 |
| 2.4 | Electricity Network Assets (Authorised Transactions) Act 2015 No 5 | 17 |
| | Section 3 Interpretation—key definitions | 18 |
| | Omit section 3, definition of associated electricity network land, paragraph (b). Insert instead— | 19 20 |
| | (b) Property and Development NSW, | 21 |
| 2.5 | Government Information (Public Access) Regulation 2018 | 22 |
| | Schedule 3 Agencies declared to be part of other agencies | 23 |
| | Omit "Property NSW". Insert instead "Property and Development NSW". | 24 |
| 2.6 | Government Sector Finance Regulation 2018 | 25 |
| | Schedule 2 Transitional reporting GSF agencies | 26 |
| | Omit "Property NSW". Insert instead "Property and Development NSW". | 27 |
| 2.7 | Greater Sydney Parklands Trust Act 2022 No 9 | 28 |
| [1] | Section 20 Management of GSPT estate and other land | 29 |
| | Omit "Property NSW Act 2006" from section 20(7). | 30 |
| | Insert instead "Property and Development NSW Act 2006". | 31 |
| [2] | Section 20(7) | 32 |
| | Omit "Property NSW". Insert instead "Property and Development NSW". | 33 |

| 2.8 | Heritage Act 1977 No 136 | 1 |
|------|---|----------------------|
| | Section 4 Definitions | 2 |
| | Omit section 4(1), definition of <i>government instrumentality</i> , paragraph (a). Insert instead— | 3 |
| | (a) a government agency that must give details of land to Property and Development NSW under the <i>Property and Development NSW Act</i> 2006, section 21A, and | 5 7 |
| 2.9 | Native Title (New South Wales) Act 1994 No 45 | 8 |
| [1] | Section 104A Saving of native title rights and interests with respect to national parks and other reservations, dedications or declarations | 9 10 |
| | Omit section 104A(1)(g). Insert instead— | 11 |
| | (g) an order under the <i>Property and Development NSW Act 2006</i> , section 19 that vests property in Property and Development NSW, | 12 13 |
| [2] | Section 104A(3) | 14 |
| | Omit "State Property Authority Act 2006". | 15 |
| | Insert instead "Property and Development NSW Act 2006". | 16 |
| 2.10 | Ports Assets (Authorised Transactions) Act 2012 No 101 | 17 |
| | Section 3 Interpretation—key definitions | 18 |
| | Omit the definition of associated port land, paragraph (b). Insert instead— | 19 |
| | (b) Property and Development NSW, | 20 |
| 2.11 | Rural Fires Regulation 2022 | 21 |
| | Section 42 Reduction of fire hazards on managed land—the Act, Dictionary, definition of "managed land" | 22 23 |
| | Omit "Property NSW" from section 42(1)(e)(iii). Insert instead "Property and Development NSW". | 2 ² 25 |
| 2.12 | Western Sydney Parklands Act 2006 No 92 | 26 |
| | Section 13 Agreements for management of Trust land and other land | 27 |
| | Omit section 13(7). Insert instead— | 28 |
| | (7) Without limiting the <i>Property and Development NSW Act 2006</i> , section 12 or this section, the Trust may enter into arrangements with Property and Development NSW under either section. | 29 30 31 |