



New South Wales

Local Government (General) Amendment (Diligent Inquiry) Regulation 1996

under the

Local Government Act 1993

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Local Government Act 1993*.

ERNIE PAGE, M.P.,

Minister for Local Government.

Explanatory note

The object of this Regulation is to insert a clause in the *Local Government (General) Regulation 1993* to give meaning to the term **diligent inquiry** for the purposes of section 188 (2) (b) of the *Local Government Act 1993*.

Section 188 (1) of the *Local Government Act 1993* prevents a council from acquiring land by compulsory process without the approval of the owner if the land is being acquired for the purposes of resale. However, section 188 (2) provides that the owner's approval is not necessary if (among other things) the owner cannot be identified after "diligent inquiry" has been made and at least 6 months has elapsed since the inquiry. Section 188 (3) provides that **diligent inquiry** has the meaning given by the regulations (and specifies that it includes the giving of notice of the proposed acquisition to the New South Wales Aboriginal Land Council and to the relevant Local Aboriginal Land Council).

This Regulation is made under the *Local Government Act 1993*, including section 188 and section 748 (the general regulation-making power).

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Clause 1 Local Government (General) Amendment (Diligent Inquiry) Regulation 1996

Local Government (General) Amendment (Diligent Inquiry) Regulation 1996

1 Name of Regulation

This Regulation is the *Local Government (General) Amendment (Diligent Inquiry) Regulation 1996*.

2 Commencement

This Regulation commences on 11 November 1996.

3 Amendment of Local Government (General) Regulation 1996

The *Local Government (General) Regulation 1996* is amended as set out in Schedule 1.

4 Notes

The explanatory note does not form part of this Regulation.

Schedule 1 Amendment of Local Government (General) Regulation 1996

(Clause 3)

Clause 9

Insert after clause 8:

9 Meaning of “diligent inquiry”

- (1) For the purposes of section 188 (2) (b) of the Act, a *diligent inquiry* for the owner of land that a council intends to acquire by compulsory process for the purpose of resale is the taking of all the actions named and described in this clause.

- (2) **Searching of registers**, being the searching of
- (a) the Register kept under the *Real Property Act 1900*, and
 - (b) the General Register of Deeds kept under the *Conveyancing Act 1919*, and
 - (c) the National Native Title Register kept under the *Native Title Act 1993* of the Commonwealth and the native title register kept under the *Native Title (New South Wales) Act 1994*,
- to identify every person who has a legal or equitable estate or interest in the land, or an easement, right, charge, power or privilege over, or in connection with, the land.
- (3) **Affixing a notice to the land**, being the placing, on a board or other structure in a conspicuous place on the land, of a notice:
- (a) stating that the council intends to acquire the land specified in the notice by compulsory process for the purpose of resale, and
 - (b) inviting the owner of the land to contact the council at an address specified in the notice.
- (4) **Publishing a notice**, being the publishing, in a newspaper circulating in the area in which the land is situated and in a newspaper circulating generally in New South Wales, of a notice referred to in subclause (3).
- (5) **Giving notice to representatives of persons who may hold native title**, being the giving of notice in the following ways:
- (a) the giving, to the New South Wales Aboriginal Land Council and to the relevant Local Aboriginal Land Council, of a notice:
 - (i) stating that the council intends to acquire the land specified in the notice by compulsory process for the purpose of resale, and

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- (ii) inviting any person who considers that he or she may hold native title to the land to contact the council at an address specified in the notice,
 - (b) if Part 2, Division 3, Subdivision B of the *Native Title Act 1993* of the Commonwealth applies to the proposed compulsory acquisition—the giving of notice as specified in section 23 (7) (c)–(f) of that Act,
 - (c) if Part 2, Division 3, Subdivision B of the *Native Title Act 1993* of the Commonwealth does not apply to the proposed compulsory acquisition—the giving of notice as specified in section 103 (2) of the *Native Title (New South Wales) Act 1994*.
- (6) For the purposes of this clause, the “act” referred to in section 23 (7) (c)–(f) of the *Native Title Act 1993* of the Commonwealth, and in section 103 (2) of the *Native Title (New South Wales) Act 1994*, is the council’s acquisition of land by compulsory process for the purpose of resale.
- (7) Despite subclause (1), if an action referred to in subclause (5) (b) or (c) is substantially the same as an action referred to in subclause (3), (4) or (5) (a), the action concerned need be taken only once.