

Passed by both Houses



New South Wales

Property NSW Amendment Bill 2024

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I certify that this public bill, which originated in the Legislative Assembly, has finally passed the Legislative Council and the Legislative Assembly of New South Wales.

*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.

I have examined this bill and find it to correspond in all respects with the bill as finally passed by both Houses.

Assistant Speaker of the Legislative Assembly.

The Legislature of New South Wales enacts—

1 Name of Act

This Act is the *Property NSW Amendment Act 2024*.

2 Commencement

This Act commences on the date of assent to this Act.

Schedule 1 Amendment of Property NSW Act 2006 No 40

[1] Section 1 Name of Act

Insert “*and Development*” after “*Property*”.

[2] Section 3 Definitions

Omit section 3(1), definition of *Property NSW*. Insert in alphabetical order—

contaminated land has the same meaning as in the *Waste Assets Management Corporation Act 2010*.

private corporation means a corporation within the meaning of the *Corporations Act 2001* of the Commonwealth formed in or outside New South Wales.

private subsidiary corporation means a private corporation in which Property and Development NSW has a controlling interest.

Property and Development NSW means Property and Development NSW constituted by section 4.

Note— See the *Interpretation Act 1987*, section 53(1), which provides for the effect of the alteration of the name of a body.

wholly owned subsidiary corporation means a private corporation in which Property and Development NSW is the only shareholder.

[3] Parts 2 and 3, headings

Insert “**and Development**” after “**Property**” wherever occurring.

[4] Sections 4, 6, 7(1) and (2), 7A, 8(1)–(4)(a), 9, 10, 11(1)–(3), 12(1)–(4), 13(1) and (3), 15(1)–(3), 16(2), 20(5), 21A(2), (3), (5), (7) and (8)

Insert “**and Development**” after “**Property**” wherever occurring, including the headings.

[5] Section 5

Omit the section. Insert instead—

5 Property and Development NSW represents the Crown

Property and Development NSW is a statutory body representing the Crown.

[6] Sections 8 and 12, headings

Insert “**and Development**” after “**Property**” wherever occurring.

[7] Section 8

Omit section 8(4)(b). Insert instead—

(b) a person, or a class of persons—

(i) approved by the Minister, or

(ii) prescribed by the regulations.

[8] Section 9, heading

Omit “**private subsidiaries, joint ventures**”.

Insert instead “**wholly owned subsidiaries, private subsidiaries**”.

[9] Section 9(a1)

Insert after section 9(a)—

(a1) by a wholly owned subsidiary corporation, or

[10] Section 9(b)

Omit “(within the meaning of section 16)”.

[11] Section 10(b1)

Insert after section 10(b)—

- (b1) to promote development of property that—
- (i) accords with best practice environmental and planning standards, and
 - (ii) is environmentally sustainable, and
 - (iii) applies innovative environmental building and public domain design,

[12] Section 11 Functions—generally

Insert after section 11(1)(b)—

- (b1) to design workspaces for use by the government or government agencies, including the fit-out of the workspaces,

[13] Section 11(1)(c)

Insert “for the government” after “operational expenses”.

[14] Section 11(1)(d1) and (d2)

Insert after section 11(1)(d)—

- (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,
- (d2) to enter into agreements with—
- (i) government agencies under section 12, or
 - (ii) government agencies or other persons in relation to property vested in, or otherwise held or managed by, Property and Development NSW,

[15] Section 11(1A)

Insert after section 11(1)—

- (1A) Without limiting subsection (1)(a), Property and Development NSW’s functions include the following—
- (a) to enter into agreements, including leases and licences, for the use of land and buildings by the government and government agencies,
 - (b) to acquire property so that Property and Development NSW may carry out development, including development that is environmentally sustainable,
 - (c) to acquire, hold and manage contaminated land for a purpose referred to in paragraph (d),
 - (d) to provide services and do other things for the following purposes in relation to contaminated land acquired, held or managed by Property and Development NSW—
 - (i) the remediation of the land,

- (ii) the use or development of the land,
- (iii) activities that relate to or are incidental to the remediation, use or development of the land.

[16] Section 11A

Insert after section 11—

11A Requirements in relation to particular leases

- (1) Property and Development NSW may enter into a lease in relation to a relevant building with a lessee that is not a government agency only if the area the subject of the lease will be used under the lease for a purpose that—
 - (a) is not inconsistent with, or is complementary to, the building's existing uses, and
 - (b) delivers benefits to the State.
- (2) If Property and Development NSW enters into a long-term lease with a lessee that is not a government agency, whether or not the lease is in relation to a relevant building, Property and Development NSW must publish notice of the lease in the Gazette—
 - (a) within the period prescribed in the regulations, or
 - (b) if a period is not prescribed in the regulations—not later than 14 days after entering into the lease.
- (3) In this section—
 - long-term lease* means a lease with an original term of more than 20 years.
 - relevant building* means a commercial building—
 - (a) owned by Property and Development NSW, and
 - (b) used for the purpose of providing offices for government agencies.

[17] Section 13 Land dealings

Insert after section 13(1)—

- (1A) Property and Development NSW may dispose of or deal with land under subsection (1) only for the following purposes—
 - (a) the achievement of Property and Development NSW's principal objectives under section 10,
 - (b) the exercise of Property and Development NSW's functions under this part.

[18] Section 14A

Insert after section 14—

14A Compulsory acquisition of land

- (1) Property and Development NSW may acquire land, by agreement or compulsory process, under the *Land Acquisition (Just Terms Compensation) Act 1991* for the following purposes—
 - (a) the achievement of Property and Development NSW's principal objectives under section 10,
 - (b) the exercise of Property and Development NSW's functions under this part.

- (2) To avoid doubt, subsection (1) does not authorise a private subsidiary corporation to acquire land, by agreement or compulsory process, under the *Land Acquisition (Just Terms Compensation) Act 1991*.

[19] Sections 15A and 15B

Insert after section 15—

15A Dealing with land subject to Crown lease

- (1) This section applies if land subject to a lease under the *Crown Land Management Act 2016*—
- (a) is vested in Property and Development NSW by an order under section 19, and
 - (b) the order specifies that the land continues to be subject to a lease.
- (2) On the vesting of the property in Property and Development NSW, the lease—
- (a) ceases to be a lease under the *Crown Land Management Act 2016*, and
 - (b) becomes a lease between the lessee and Property and Development NSW on the same terms as were in force immediately before the vesting.
- Note—** See the *Native Title (New South Wales) Act 1994*, section 104A, which provides that certain acts under this Act do not extinguish native title rights and interests, and the *Aboriginal Land Rights Act 1983*, section 36, which provides for claims to Crown lands by the New South Wales Aboriginal Land Council and Local Aboriginal Land Councils.
- (3) For the purposes of subsection (2)(b), a reference in the lease, or another instrument in relation to the lease, to the Minister administering the *Crown Land Management Act 2016* is taken to be a reference to Property and Development NSW.

15B Wholly owned subsidiary corporations

- (1) Property and Development NSW may, with the approval of the Treasurer, establish wholly owned subsidiary corporations to hold property for Property and Development NSW.
- (2) A wholly owned subsidiary corporation is—
- (a) a statutory body representing the Crown, and
 - (b) is subject to the direction and control of Property and Development NSW.

[20] Section 16 Private subsidiary corporations etc

Omit section 16(1).

[21] Section 17 Definitions

Omit the definition of *transfer date*. Insert instead—
transfer date—see section 19(1A).

[22] Section 18 Transfer of property described in Schedule 1 to Property NSW

Omit the section.

[23] Section 19

Omit section 19, heading and subsection (1). Insert instead—

19 Transfer of property to Property and Development NSW

- (1) The Minister may, by order published in the Gazette, transfer property specified in the order to Property and Development NSW.
- (1A) Property transferred to Property and Development NSW by an order under this section vests in Property and Development NSW on the later of the following dates (the *transfer date*)—
 - (a) the date the order is published in the Gazette,
 - (b) the date specified in the order.
- (1B) Property specified in an order under this section vests in Property and Development NSW for an estate in fee simple, or another interest specified in the order—
 - (a) without the need for further conveyance, transfer, assignment or assurance, and
 - (b) subject to any trusts, estates, interests, dedications, conditions, restrictions and covenants to which the land was subject immediately before the transfer date.
- (1C) On the transfer date for the property, the following have effect—
 - (a) the rights and liabilities of the transferor in relation to the property become the rights and liabilities of Property and Development NSW,
 - (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,
 - (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,
 - (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.

[24] Section 19(2) and (3)

Omit “included in Schedule 1 by” wherever occurring.

Insert instead “transferred to Property and Development NSW by an”.

[25] Section 19(2)

Omit “Subject to section 18(1)(b), this”. Insert instead “This”.

[26] Section 21A Land register of GSF agency property

Omit section 21A(1).

[27] Section 21A(2A)

Insert after section 21A(2)—

- (2A) For subsection (2)(e)(i), the valuation of the current market value of the land must be prepared in accordance with—
 - (a) any Treasurer’s directions that are applicable, and

- (b) any applicable policy of the Secretary of the department in which the *Government Sector Finance Act 2018* is administered.

[28] Section 21A(6) and (6A)

Omit section 21A(6). Insert instead—

- (6) Property and Development NSW may ask the Valuer-General to—
 - (a) provide advice on the details in the register under subsection (5) or any other matter under this section, or
 - (b) conduct a valuation mentioned in subsection (2)(e)(i) and provide the valuation to Property and Development NSW.
- (6A) If Property and Development NSW makes a request under subsection (6)(b)—
 - (a) the request must be in the form approved by the Valuer-General, and
 - (b) a fee determined by the Valuer-General is payable, by the GSF agency that owns or occupies the land, for the valuation.

[29] Section 21A(10)

Insert after section 21A(9)—

- (10) In this section—
 - GSF agency* has the same meaning as in the *Government Sector Finance Act 2018*.
 - Public Service agency* has the same meaning as in the *Government Sector Finance Act 2018*.
 - Treasurer's directions has the same meaning as in the *Government Sector Finance Act 2018*.

[30] Schedule 1 Property transferred to Property NSW

Omit the schedule.

Schedule 2 Consequential amendments of other legislation

2.1 Aboriginal Land Rights Act 1983 No 42

[1] Section 36 Claims to Crown lands

Omit “the State Property Authority” in section 36(16), (17) and (18), wherever occurring.
Insert instead “Property and Development NSW”.

[2] Section 36(17)(a)

Omit “*State Property Authority Act 2006*”.
Insert instead “*Property and Development NSW Act 2006*”.

2.2 Criminal Procedure Regulation 2017

Schedule 3 NSW Government agencies and statutory bodies required to pay court fees

Omit “Property NSW”. Insert instead “Property and Development NSW”.

2.3 Crown Land Management Act 2016 No 58

Section 4.11 Application of Division

Omit “*Government Property NSW Act 2006*” from section 4.11(2)(b).
Insert instead “*Property and Development NSW Act 2006*”.

2.4 Electricity Network Assets (Authorised Transactions) Act 2015 No 5

Section 3 Interpretation—key definitions

Omit section 3, definition of *associated electricity network land*, paragraph (b). Insert instead—

(b) Property and Development NSW,

2.5 Government Information (Public Access) Regulation 2018

Schedule 3 Agencies declared to be part of other agencies

Omit “Property NSW”. Insert instead “Property and Development NSW”.

2.6 Government Sector Finance Regulation 2018

Schedule 2 Transitional reporting GSF agencies

Omit “Property NSW”. Insert instead “Property and Development NSW”.

2.7 Greater Sydney Parklands Trust Act 2022 No 9

[1] Section 20 Management of GSPT estate and other land

Omit “Property NSW Act 2006” from section 20(7).
Insert instead “Property and Development NSW Act 2006”.

[2] Section 20(7)

Omit “Property NSW”. Insert instead “Property and Development NSW”.

2.8 Heritage Act 1977 No 136

Section 4 Definitions

Omit section 4(1), definition of *government instrumentality*, paragraph (a). Insert instead—

- (a) a government agency that must give details of land to Property and Development NSW under the *Property and Development NSW Act 2006*, section 21A, and

2.9 Native Title (New South Wales) Act 1994 No 45

[1] Section 104A Saving of native title rights and interests with respect to national parks and other reservations, dedications or declarations

Omit section 104A(1)(g). Insert instead—

- (g) an order under the *Property and Development NSW Act 2006*, section 19 that vests property in Property and Development NSW,

[2] Section 104A(3)

Omit “*State Property Authority Act 2006*”.

Insert instead “*Property and Development NSW Act 2006*”.

2.10 Ports Assets (Authorised Transactions) Act 2012 No 101

Section 3 Interpretation—key definitions

Omit the definition of *associated port land*, paragraph (b). Insert instead—

- (b) Property and Development NSW,

2.11 Rural Fires Regulation 2022

Section 42 Reduction of fire hazards on managed land—the Act, Dictionary, definition of “managed land”

Omit “Property NSW” from section 42(1)(e)(iii). Insert instead “Property and Development NSW”.

2.12 Western Sydney Parklands Act 2006 No 92

Section 13 Agreements for management of Trust land and other land

Omit section 13(7). Insert instead—

- (7) Without limiting the *Property and Development NSW Act 2006*, section 12 or this section, the Trust may enter into arrangements with Property and Development NSW under either section.