



New South Wales

Crown Lands Amendment (Public Ownership of Beaches and Coastal Lands) Bill 2014

Explanatory note

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

Overview of Bill

The object of this Bill is to amend the *Crown Lands Act 1989* to ensure that, to the greatest extent possible, beaches and other coastal land that is Crown land remain in public ownership.

Outline of provisions

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 the date of assent to the proposed Act.

Schedule 1 Amendment of Crown Lands Act 1989 No 6

Schedule 1 amends the *Crown Lands Act 1989* to achieve the object described in the Overview above by:

- (a) defining as *Crown beach and coastal land* the beaches and other coastal land that is Crown land to which the Bill relates (**proposed section 44F—Schedule 1 [6]**), and
- (b) prohibiting the sale, exchange, transfer or disposal of Crown beach and coastal land without preventing leases and certain other dealings or arrangements and agreements being entered into and given effect in relation to the land (**proposed section 44G—Schedule 1 [6]**), and
- (c) preventing the Minister from selling, exchanging, transferring or disposing of Crown beach and coastal land (**Schedule 1 [3]–[5]**), and

- (d) providing that Division 2 of Part 2 (Claimable Crown lands) of the *Aboriginal Land Rights Act 1983* does not apply to or in respect of Crown beach and coastal land and that no land claim may be made or granted in respect of it and that such land must not be transferred or otherwise alienated (**Schedule 1 [2] and proposed section 44H—Schedule 1 [6]**).

Schedule 1 [8] inserts savings and transitional provisions with respect to existing land claims and ensures that no compensation is payable as a consequence of the amendments.

Schedule 1 [1] and [7] make consequential amendments.

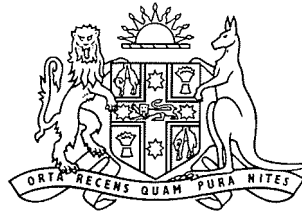


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New South Wales

Crown Lands Amendment (Public Ownership of Beaches and Coastal Lands) Bill 2014

No. , 2014

A Bill for

An Act to amend the *Crown Lands Act 1989* to ensure that beaches and certain coastal land that are Crown lands remain in public ownership.

The Legislature of New South Wales enacts:

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1 Name of Act

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This Act is the *Crown Lands Amendment (Public Ownership of Beaches and Coastal Lands) Act 2014*.

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4

2 Commencement

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

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Schedule 1	Amendment of Crown Lands Act 1989 No 6	1
[1] Section 3 Definitions		2
	Insert in alphabetical order in section 3 (1):	3
	<i>core beach land</i> —see section 44F.	4
	<i>Crown beach and coastal land</i> —see section 44F.	5
[2] Section 7 Relationship with other Acts		6
	Omit “This”. Insert instead “Except as provided by sections 44G and 44H, this”.	7
[3] Section 34 Powers of Minister in relation to Crown land		8
	Insert “other than Crown beach and coastal land” after “Crown land” in section 34 (1) (a).	9
[4] Section 34 (1) (a1)		10
	Insert after section 34 (1) (a):	11
	(a1) lease or otherwise deal with Crown land that is Crown beach and coastal land, or	12 13
[5] Section 34 (1) (b)		14
	Insert “any” after “respect of,”.	15
[6] Part 4, Division 3B		16
	Insert after Division 3A:	17
Division 3B	Crown beach and coastal land	18
44F	Definitions	19
	(1) In this Act:	20
	<i>core beach land</i> means any area of unconsolidated or other readily erodable material between the highest level reached by wave action and the place where tidal or lake waters reach a depth of 10 metres below Australian Height Datum that is Crown land but does not include any such area that is private land.	21 22 23 24
	<i>Crown beach and coastal land</i> means any of the following:	25
	(a) core beach land,	26
	(b) submerged Crown land within 3 nautical miles seawards of adjacent core beach land,	27 28
	(c) Crown land that is associated with the use (whether by right or common practice) of core beach land (whether or not adjacent to Crown land referred to in paragraph (a) or (b)) and that is:	29 30 31
	(i) used in conjunction with core beach land, including (but not limited to) any recreation area, picnic area or children’s play area and any such land on which a surf life-saving club or related premises, toilets, changing, showering or washing facilities, kiosk, coffee shop, emergency rescue facility, restaurant, marina, boat shed or other facility for storing, berthing or maintenance of boats or a rowing or other boat club is situated, or	32 33 34 35 36 37 38
	(ii) used or required to gain access to core beach land, including (but not limited to) a Crown road or a path, footpath, pedestrian access way or parking area.	39 40 41

(2)	In this section:	1
	<i>Crown land</i> includes land dedicated for a public purpose as referred to in paragraph (a) of the definition of <i>Crown land</i> in section 3.	2
	<i>Crown road</i> includes a Crown road within the meaning of the <i>Roads Act 1993</i> .	3
		4
44G	Prohibition on sale or other disposal of Crown beach and coastal land	5
(1)	The sale, exchange, transfer or other disposal of Crown beach and coastal land is prohibited.	6
		7
(2)	Nothing in this section prevents the lease of, or any other dealings with, Crown beach and coastal land.	8
		9
(3)	Nothing in this section prevents Crown beach and coastal land from being dedicated or reserved or otherwise set aside for a public purpose under this or any other Act.	10
		11
		12
(4)	Nothing in this section prevents:	13
(a)	entry into any arrangement or agreement with a person or body having control or management of Crown beach and coastal land with respect to the use or management of, or access to, the land in accordance with any applicable legislation, or	14
		15
		16
		17
(b)	the use or management of, or access to, the land in accordance with such an arrangement or agreement.	18
		19
	Note. See, for example, Division 12 of Part 4 of the <i>National Parks and Wildlife Act 1974</i> .	20
		21
(5)	In this section:	22
	<i>applicable legislation</i> includes the <i>Coastal Protection Act 1979</i> , the <i>Marine Parks Act 1997</i> , the <i>National Parks and Wildlife Act 1974</i> and the <i>Threatened Species Conservation Act 1995</i> .	23
		24
		25
44H	Relationship to Aboriginal Land Rights Act 1983	26
	Despite anything in this or any other Act, Division 2 of Part 2 of the <i>Aboriginal Land Rights Act 1983</i> does not apply to or in respect of Crown beach and coastal land. Accordingly, a land claim within the meaning of that Act may not be made or granted in respect of Crown beach and coastal land and such land must not be transferred or otherwise alienated.	27
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[7]	Section 177 Certificate as to status of land	32
	Insert after section 177 (1) (d):	33
(d1)	specified land was, or was not, Crown beach and coastal land,	34

[8] Schedule 8 Savings, transitional and other provisions	1
Insert after Part 8:	2
Part 9 Provisions consequent on Crown Lands Amendment (Public Ownership of Beaches and Coastal Lands) Act 2014	3
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	5
62 Definitions	6
In this Part:	7
<i>amending Act</i> means the <i>Crown Lands Amendment (Public Ownership of Beaches and Coastal Lands) Act 2014</i> .	8
	9
<i>compensation</i> includes damages or any other form of monetary compensation.	10
<i>conduct</i> includes any act or omission, whether unconscionable, misleading, deceptive or otherwise.	11
	12
<i>Crown Lands Minister</i> has the meaning it has in section 36 of the <i>Aboriginal Land Rights Act 1983</i> .	13
	14
<i>land claim</i> has the meaning it has in the <i>Aboriginal Land Rights Act 1983</i> .	15
<i>statement</i> includes a representation of any kind:	16
(a) whether made verbally or in writing, and	17
(b) whether negligent, false or misleading or otherwise.	18
<i>the State</i> means the Crown within the meaning of the <i>Crown Proceedings Act 1988</i> , and includes a public sector agency of the State and an officer, employee or agent of the Crown or a public sector agency of the State.	19
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63 Existing land claims	22
(1) Section 44H as inserted by the amending Act extends to any land claim with respect to Crown beach and coastal lands (or so much of any such land claim as relates to Crown beach and coastal lands) made to, but not determined by, the Crown Lands Minister before the commencement of the amending Act.	23
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(2) The Crown Lands Minister in respect of any land the subject of a land claim referred to in subclause (1) must refuse the land claim (or the land claim to the extent it relates to Crown beach and coastal land).	27
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(3) Nothing in section 44H or this clause prevents the transfer of any Crown beach and coastal land in relation to which a land claim has been granted by the Crown Lands Minister before the commencement of the amending Act.	30
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(4) Nothing in section 44H or this clause prevents the transfer of any Crown beach and coastal land as a consequence of a decision in respect of an appeal duly made before introduction of the Bill for the amending Act into Parliament with respect to the refusal of a land claim.	33
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64 No compensation payable by State	37
Compensation is not payable by or on behalf of the State arising directly or indirectly from any of the following matters:	38
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(a) the enactment or operation of Division 3B of Part 4 of the Act, this Part or the amending Act,	40
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|-----|--|-------------|
| (b) | any consequence of the enactment or operation of Division 3B of Part 4 of the Act, this Part or amendments made to this Act by the amending Act, | 1
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| (c) | the exercise by any person of a function under Division 3B of Part 4 of the Act or this Part with respect to Crown beach and coastal land, | 4
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| (d) | any statement or conduct relating to the exercise of a function referred to in paragraph (c). | 6
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