



New South Wales

# Property NSW Amendment Bill 2024

## Explanatory note

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

## Overview of Bill

The object of this Bill is to make miscellaneous amendments to the *Property NSW Act 2006*.

## 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 Property NSW Act 2006 No 40

**Schedule 1[2]** amends and inserts new definitions for the purposes of the *Property NSW Act 2006 (the Act)*. **Schedule 1[10] and [18]** make consequential amendments.

**Schedule 1[3]–[6]** makes various amendments to change the name of the corporation constituted by the Act to “Property and Development NSW”. **Schedule 1[1]** reflects this change in the name of the Act. **Schedule 2** makes consequential amendments to update references to the Corporation and name of the Act in other legislation.

**Schedule 1[7]** makes a minor amendment to the definition of an *authorised person*.

**Schedule 1[9]** provides that any function of Property and Development NSW may be exercised by a wholly owned subsidiary corporation. **Schedule 1[8]** amends a heading to reflect this change.

**Schedule 1[11]** provides that it is a primary objective of Property and Development NSW to promote development of property that accords with best practice environment and planning standards, is environmentally sustainable and applies innovative environmental building and public domain design.

**Schedule 1[12]–[15]** provides that the following are functions of Property and Development NSW—

- (a) to design workspaces for use by the government or government agencies,
- (b) to develop, hold and manage information technology relating to land use analysis or the management, maintenance or improvement of land,
- (c) to enter into agreements in certain circumstances,
- (d) to acquire property for development,
- (e) to acquire, hold and manage contaminated land, and to provide services and do other things in relation to contaminated land for certain purposes.

**Schedule 1[16]** makes it clear that Property and Development NSW may compulsorily acquire land in accordance with the *Land Acquisition (Just Terms Compensation) Act 1991* for the purposes of Property and Development NSW's functions and clarifies that a private subsidiary corporation of Property and Development NSW is not authorised to compulsorily acquire land.

**Schedule 1[17]** inserts proposed sections 15A and 15B. Proposed section 15A clarifies the status of land subject to a lease under the *Crown Land Management Act 2016* on the vesting of property in Property and Development NSW. Proposed section 15B allows Property and Development NSW to, with the approval of the Treasurer, establish wholly owned subsidiary corporations to hold property on behalf of Property and Development NSW.

**Schedule 1[19]** amends the definition of *transfer date* for the purposes of the Act, Part 4.

**Schedule 1[21]** simplifies the vesting process under the Act to allow the Minister for Lands and Property, by order published in the Gazette, to transfer property specified in the order to Property and Development NSW. **Schedule 1[20], [22], [23] and [28]** make consequential amendments.

**Schedule 1[25]** specifies that a valuation of the current market value of land for the purposes of the Act, section 21A(2)(e)(i) must be prepared in accordance with any direction from the Treasurer and with any applicable policy of the Secretary of the Department in which the *Government Sector Finance Act 2018* is administered.

**Schedule 1[26]** provides that Property and Development NSW may ask the Valuer-General to provide advice on the details in the land register under the Act, section 21A or conduct a valuation mentioned in section 21A(2)(e)(i) and provide the valuation to Property and Development NSW. This item also provides the process Property and Development NSW must follow to request such a valuation.

**Schedule 1[27]** inserts certain definitions for the purposes of section 21A. **Schedule 1[24]** makes consequential amendments.



New South Wales

# Property NSW Amendment Bill 2024

## Contents

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		Page
	1 Name of Act	2
	2 Commencement	2
<b>Schedule 1</b>	<b>Amendment of Property NSW Act 2006 No 40</b>	<b>3</b>
<b>Schedule 2</b>	<b>Consequential amendments of other legislation</b>	<b>8</b>

*This PUBLIC BILL, originated in the LEGISLATIVE ASSEMBLY and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.*

*Legislative Assembly*

*Clerk of the Legislative Assembly*



New South Wales

## **Property NSW Amendment Bill 2024**

No. \_\_\_\_\_, 2024

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### **A Bill for**

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

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*The LEGISLATIVE COUNCIL has this day agreed to this Bill with/without amendment.*

*Legislative Council*

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*Clerk of the Parliaments*

**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

<b>Schedule 1</b>	<b>Amendment of Property NSW Act 2006 No 40</b>	1
<b>[1] Section 1 Name of Act</b>		2
	Insert “ <i>and Development</i> ” after “ <i>Property</i> ”.	3
<b>[2] Section 3 Definitions</b>		4
	Omit section 3(1), definition of <i>Property NSW</i> . Insert in alphabetical order—	5
	<i>contaminated land</i> has the same meaning as in the <i>Waste Assets Management Corporation Act 2010</i> .	6
	<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.	7
	<i>private subsidiary corporation</i> means a private corporation in which Property and Development NSW has a controlling interest.	8
	<i>Property and Development NSW</i> means Property and Development NSW constituted by section 4.	9
	<b>Note</b> — See the <i>Interpretation Act 1987</i> , section 53(1), which provides for the effect of the alteration of the name of a body.	10
	<i>wholly owned subsidiary corporation</i> means a private corporation in which Property and Development NSW is the only shareholder.	11
<b>[3] Parts 2 and 3, headings</b>		12
	Insert “ <b>and Development</b> ” after “ <b>Property</b> ” wherever occurring.	13
<b>[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)</b>		14
	Insert “and Development” after “Property” wherever occurring, including the headings.	15
<b>[5] Section 5</b>		16
	Omit the section. Insert instead—	17
	<b>5 Property and Development NSW represents the Crown</b>	18
	Property and Development NSW is a statutory body representing the Crown.	19
<b>[6] Sections 8 and 12, headings</b>		20
	Insert “ <b>and Development</b> ” after “ <b>Property</b> ” wherever occurring.	21
<b>[7] Section 8</b>		22
	Omit section 8(4)(b). Insert instead—	23
	(b) a person, or a class of persons—	24
	(i) approved by the Minister, or	25
	(ii) prescribed by the regulations.	26
<b>[8] Section 9, heading</b>		27
	Omit “ <b>private subsidiaries, joint ventures</b> ”.	28
	Insert instead “ <b>wholly owned subsidiaries, private subsidiaries</b> ”.	29
<b>[9] Section 9(a1)</b>		30
	Insert after section 9(a)—	31

	(a1) by a wholly owned subsidiary corporation, or	1
<b>[10] Section 9(b)</b>		2
	Omit “(within the meaning of section 16)”.	3
<b>[11] Section 10(b1)</b>		4
	Insert after section 10(b)—	5
	(b1) to promote development of property that—	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
<b>[12] Section 11 Functions—generally</b>		12
	Insert after section 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
<b>[13] Section 11(1)(c)</b>		16
	Insert “for the government” after “operational expenses”.	17
<b>[14] Section 11(1)(d1) and (d2)</b>		18
	Insert after section 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) to enter into agreements with—	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
<b>[15] Section 11(1A)</b>		29
	Insert after section 11(1)—	30
	(1A) Without limiting subsection (1)(a), Property and Development NSW’s functions 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
	(c) to acquire, hold and manage contaminated land for a purpose referred to in paragraph (d),	38 39
	(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—	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.	2 3
<b>[16]</b>	<b>Section 14A</b>	4
	Insert after section 14—	5
<b>14A</b>	<b>Compulsory acquisition of land</b>	6
	(1) Property and Development NSW may, for this Act, acquire land, by agreement or compulsory process, under the <i>Land Acquisition (Just Terms Compensation) Act 1991</i> .	7 8 9
	(2) To avoid doubt, subsection (1) does not authorise a private subsidiary corporation to acquire land, by agreement or compulsory process, under the <i>Land Acquisition (Just Terms Compensation) Act 1991</i> .	10 11 12
<b>[17]</b>	<b>Sections 15A and 15B</b>	13
	Insert after section 15—	14
<b>15A</b>	<b>Dealing with land subject to Crown lease</b>	15
	(1) This section applies if land subject to a lease under the <i>Crown Land Management Act 2016</i> —	16 17
	(a) is vested in Property and Development NSW by an order under section 19, and	18 19
	(b) the order specifies that the land continues to be subject to a lease.	20
	(2) On the vesting of the property in Property and Development NSW, the lease—	21
	(a) ceases to be a lease under the <i>Crown Land Management Act 2016</i> , and	22
	(b) becomes a lease between the lessee and Property and Development NSW on the same terms as were in force immediately before the vesting.	23 24 25
	<b>Note—</b> See the <i>Native Title (New South Wales) 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.	26 27 28 29 30
	(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 <i>Crown Land Management Act 2016</i> is taken to be a reference to Property and Development NSW.	31 32 33 34
<b>15B</b>	<b>Wholly owned subsidiary corporations</b>	35
	(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.	36 37 38
	(2) A wholly owned subsidiary corporation is—	39
	(a) a statutory body representing the Crown, and	40
	(b) is subject to the direction and control of Property and Development NSW.	41 42
<b>[18]</b>	<b>Section 16 Private subsidiary corporations etc</b>	43
	Omit section 16(1).	44



<b>[19] Section 17 Definitions</b>	1
Omit the definition of <i>transfer date</i> . Insert instead—	2
<i>transfer date</i> —see section 19(1A).	3
<b>[20] Section 18 Transfer of property described in Schedule 1 to Property NSW</b>	4
Omit the section.	5
<b>[21] Section 19</b>	6
Omit section 19, heading and subsection (1). Insert instead—	7
<b>19 Transfer of property to Property and Development NSW</b>	8
(1) The Minister may, by order published in the Gazette, transfer property specified in the order to Property and Development NSW.	9 10
(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 <i>transfer date</i> )—	11 12 13
(a) the date the order is published in the Gazette,	14
(b) the date specified in the order.	15
(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—	16 17 18
(a) without the need for further conveyance, transfer, assignment or assurance, and	19 20
(b) subject to any trusts, estates, interests, dedications, conditions, restrictions and covenants to which the land was subject immediately before the transfer date.	21 22 23
(1C) On the transfer date for the property, the following have effect—	24
(a) the rights and liabilities of the transferor in relation to the property become the rights and liabilities of Property and Development NSW,	25 26
(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,	27 28 29
(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,	30 31 32 33 34
(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.	35 36 37 38 39
<b>[22] Section 19(2) and (3)</b>	40
Omit “included in Schedule 1 by” wherever occurring.	41
Insert instead “transferred to Property and Development NSW by an”.	42
<b>[23] Section 19(2)</b>	43
Omit “Subject to section 18(1)(b), this”. Insert instead “This”.	44

<b>[24] Section 21A Land register of GSF agency property</b>	1
Omit section 21A(1).	2
<b>[25] Section 21A(2A)</b>	3
Insert after section 21A(2)—	4
(2A) For subsection (2)(e)(i), the valuation of the current market value of the land must be prepared in accordance with—	5
(a) any Treasurer’s directions that are applicable, and	6
(b) any applicable policy of the Secretary of the department in which the <i>Government Sector Finance Act 2018</i> is administered.	7
<b>[26] Section 21A(6) and (6A)</b>	10
Omit section 21A(6). Insert instead—	11
(6) Property and Development NSW may ask the Valuer-General to—	12
(a) provide advice on the details in the register under subsection (5) or any other matter under this section, or	13
(b) conduct a valuation mentioned in subsection (2)(e)(i) and provide the valuation to Property and Development NSW.	14
(6A) If Property and Development NSW makes a request under subsection (6)(b)—	15
(a) the request must be in the form approved by the Valuer-General, and	16
(b) a fee determined by the Valuer-General is payable, by the GSF agency that owns or occupies the land, for the valuation.	17
<b>[27] Section 21A(10)</b>	18
Insert after section 21A(9)—	19
(10) In this section—	20
<b>GSF agency</b> has the same meaning as in the <i>Government Sector Finance Act 2018</i> .	21
<b>Public Service agency</b> has the same meaning as in the <i>Government Sector Finance Act 2018</i> .	22
Treasurer’s directions has the same meaning as in the <i>Government Sector Finance Act 2018</i> .	23
<b>[28] Schedule 1 Property transferred to Property NSW</b>	24
Omit the schedule.	25

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

<b>2.8 Heritage Act 1977 No 136</b>	1
<b>Section 4 Definitions</b>	2
Omit section 4(1), definition of <i>government instrumentality</i> , paragraph (a). Insert instead—	3 4
(a) a government agency that must give details of land to Property and Development NSW under the <i>Property and Development NSW Act 2006</i> , section 21A, and	5 6 7
<b>2.9 Native Title (New South Wales) Act 1994 No 45</b>	8
<b>[1] Section 104A Saving of native title rights and interests with respect to national parks and other reservations, dedications or declarations</b>	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
<b>[2] Section 104A(3)</b>	14
Omit “ <i>State Property Authority Act 2006</i> ”.	15
Insert instead “ <i>Property and Development NSW Act 2006</i> ”.	16
<b>2.10 Ports Assets (Authorised Transactions) Act 2012 No 101</b>	17
<b>Section 3 Interpretation—key definitions</b>	18
Omit the definition of <i>associated port land</i> , paragraph (b). Insert instead—	19
(b) Property and Development NSW,	20
<b>2.11 Rural Fires Regulation 2022</b>	21
<b>Section 42 Reduction of fire hazards on managed land—the Act, Dictionary, definition of “managed land”</b>	22 23
Omit “Property NSW” from section 42(1)(e)(iii). Insert instead “Property and Development NSW”.	24 25
<b>2.12 Western Sydney Parklands Act 2006 No 92</b>	26
<b>Section 13 Agreements for management of Trust land and other land</b>	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