

CROWN LANDS BILL 1988

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The following Bills are cognate with this Bill:

- Crown Lands (Continued Tenures) Bill 1988;
- Western Lands (Crown Lands) Amendment Bill 1988;
- Miscellaneous Acts (Crown Lands) Amendment Bill 1988.

The objects of this Bill are—

- (a) to repeal the Crown Lands Consolidation Act 1913, the Closer Settlement Acts and other related Acts; and
- (b) to provide for the future administration and management of Crown land in the Eastern and Central Division of the State.

PART 1—PRELIMINARY

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides that the proposed Act will commence on a day or days to be appointed by the Governor-in-Council.

Clause 3 contains definitions for use in interpreting the proposed Act.

Clause 4 divides the State into 2 Divisions for the purposes of the proposed Act. They are the Eastern and Central Division and the Western Division. The boundary between the Divisions may be varied by regulation.

Clause 5 applies the proposed Act to the Eastern and Central Division of the State, to irrigation areas not within that Division and to some purchases in the Western Division.

Clause 6 provides that Crown land shall not be occupied, used, sold, leased, licensed, dedicated or reserved or otherwise dealt with except by the authority of the proposed Act or the proposed Crown Lands (Continued Tenures) Act 1988.

Crown Lands 1988

Clause 7 provides that the proposed Act does not affect the operation of any other Act making special provision in relation to the disposal etc. of Crown land.

Clause 8 divides the Eastern and Central Division into land districts.

Clause 9 provides for the setting apart of Crown land for cities, towns or villages.

Clause 10 specifies the objects of the proposed Act. These include—

- (a) the management of Crown land for the benefit of the people of New South Wales;
- (b) the proper assessment of Crown land; and
- (c) the management, development and conservation of Crown land having regard to principles of Crown land management contained in the proposed Act.

Clause 11 sets out the principles of Crown land management. These require, among other things, the observation of environmental protection principles, the conservation of natural resources and the use and disposal of Crown land in the best interests of the State.

PART 2—ADMINISTRATION**Division 1—Minister**

Clause 12 provides that the Minister is responsible for achieving the objects of the Act and empowers the establishment of advisory committees to assist the Minister.

Clause 13 constitutes a Lands Administration Ministerial Corporation.

Clause 14 enables the making of regulations with respect to the seal and the records of the Corporation.

Clause 15 sets out the functions of the Corporation. These include entering into contracts for the carrying out of work on Crown land, for the appointment of agents for the sale or lease of Crown land and for the provision of services or information. For the purposes of securing loans for the development etc. of Crown land the Corporation acts as the owner of the land.

Clause 16 provides for the use by the Corporation of the staff and facilities of the Department of Lands and, by arrangement, other departments.

Clause 17 defines the financial year of the Corporation.

Clause 18 allows the Minister to enter into agency arrangements with other Ministers or statutory authorities.

Division 2—Local land boards

Clause 19 provides for the appointment of Chairpersons and a Senior Chairperson of local land boards.

Clause 20 constitutes a local land board for each land district. A local land board is to consist of a Chairperson and 2 other members. The provisions in Schedule 1 have effect with respect to the appointment of the members.

Clause 21 provides for the assigning of business to, and the sittings of, local land boards.

Clause 22 enables a local land board to hear and determine matters referred to it by the Minister for inquiry and report and matters coming before it under this or another Act including appeals against certain decisions made under the proposed Crown Lands (Continued Tenures) Act 1988.

Crown Lands 1988

Clause 23 authorises the Minister to return a matter to a local land board for further consideration.

Clause 24 gives effect to Schedule 2 which contains provisions with respect to the powers and procedure of local land boards.

Division 3—Appeals and references to the Land and Environment Court

Clause 25 is an interpretation provision. The Division is not to apply to matters referred to a local land board for inquiry and report only.

Clause 26 provides that a party to proceedings before a local land board has a right of appeal to the Land and Environment Court against the board's decision.

Clause 27 authorises a local land board to refer a matter to the Land and Environment Court for decision by the Court.

Clause 28 enables the Minister to refer local land board decisions to the Land and Environment Court for rehearing in certain circumstances.

Clause 29 gives the Land and Environment Court power to hear matters coming before it under the proposed Act or the proposed Crown Lands (Continued Tenures) Act 1988.

PART 3—LAND ASSESSMENT

Clause 30 requires the Minister to institute a programme for the assessment of Crown land, including the preparation of an inventory of Crown land and the identification of suitable uses for Crown land.

Clause 31 sets out particulars to be contained in the inventory.

Clause 32 contains provisions concerning the assessment of the capabilities of Crown land.

Clause 33 specifies the matters to be taken into account in identifying suitable uses, and preferred uses, for Crown land.

PART 4—SALE, LEASE ETC. OF CROWN LAND**Division 1—General**

Clause 34 authorises the Minister, in such manner and subject to such terms and conditions as the Minister determines, to sell, lease, exchange or otherwise dispose of Crown land and to grant easements, licences, permits etc. over Crown land.

Clause 35 prevents the Minister from exercising the powers under this Part in respect of land unless the land has been assessed under Part 3. However, if the Minister is satisfied that it is in the public interest, and regard has been had to the principles of Crown land management, the provision does not apply. There is also an exception of enclosure permits and certain licences.

Division 2—Sales of Crown land

Clause 36 specifies conditions which may be included in a contract for the sale of Crown land (including conditions requiring the erection of buildings on the land).

Clause 37 makes provision for the recording on titles of conditions attaching to land purchased from the Crown.

Crown Lands 1988

Clause 38 authorises the recording on titles of transfer restrictions operating where conditions have not been complied with.

Clause 39 bars registration of transfers where a restriction is in force.

Clause 40 authorises the Ministerial Corporation to take mortgages on behalf of the Crown from purchasers owing part of the purchase price to the Crown.

Division 3—Leases of Crown land

Clause 41 provides that a lease of Crown land granted by the Minister shall have a maximum term of 100 years.

Clause 42 provides that a disposition of land may be a lease even though exclusive possession is not conferred.

Clause 43 authorises the exclusion of the operation of provisions of the Conveyancing Act 1919 in respect of leases.

Clause 44 enables the imposition of transfer restrictions on leases of Crown land.

Division 4—Licences

Clause 45 allows the issue of licences for such purposes as the Minister thinks fit.

Clause 46 provides that a disposition of land may be a licence even though exclusive possession is conferred.

Clause 47 provides for the revocation of licences.

Clause 48 states that licences are not transferable.

Clause 49 contains special requirements in regard to licences for the removal of minerals and other materials.

Clause 50 authorises the granting of licences subject to payment of rent, royalty, fees and other amounts.

Division 5—Easements

Clause 51 contains definitions of terms used in the Division.

Clause 52 authorises the creation of easements over Crown land.

Clause 53 provides for the release of easements.

Clause 54 prescribes the effective date of creation or release of easements.

Clause 55 requires the consent of any holders of land to the creation or release of easements over the land.

Clause 56 provides for the creation of easements for public access.

Clause 57 prescribes the rights of the public to use easements for public access and provides a penalty for unauthorised use.

Clause 58 defines the rights of owners or lessees of land affected by easements for public access.

Clause 59 provides for the recording on titles of particulars of easements.

Crown Lands 1988

Division 6—Enclosure of roads and watercourses

Clause 60 contains definitions of terms used in the Division.

Clause 61 authorises the Minister to grant permits to enclose roads or watercourses (enclosure permits) on application, subject to the provision of public access.

Clause 62 provides for additional roads or watercourses to be included in an enclosure permit.

Clause 63 provides that a person who encloses a road or watercourse without authority is taken to have been granted an enclosure permit (subject to a rent as determined).

Clause 64 contains provisions relating to the transfer of land with which an enclosure permit is held.

Clause 65 contains provisions relating to the subdivision of land with which an enclosure permit is held.

Clause 66 provides for the cancellation of permits and the removal of any gates etc. erected on the road or watercourse.

Clause 67 requires the Minister to cancel or vary permits in certain prescribed circumstances.

Clause 68 allows for amalgamation of permits.

Clause 69 enables any person to apply for a direction to erect or remove gates etc. on an enclosed road or watercourse.

Clause 70 authorises the Minister or a local land board to direct that gates etc. be erected on, or removed from, an enclosed road or watercourse to allow public access.

Clause 71 provides for objections to a direction of the Minister.

Clause 72 enables the Minister to authorise the cultivation of land in an enclosed road where the provision of public access to the road is not justified during a particular period. Requirements for public notice and hearing of objections are included.

Clause 73 states that the holder of an enclosure permit is an owner or lessee for the purposes of laws relating to dividing fences.

Clause 74 states that a gate erected in accordance with a direction is a public gate under the Public Gates Act 1901.

Division 7—Vesting of land in councils

Clause 75 contains definitions of terms used in the Division.

Clause 76 authorises the Minister, with the consent of a council, to vest certain Crown land in the council.

Clause 77 sets out the provisions applicable to land on its being vested in a council.

PART 5—DEDICATION AND RESERVATION OF LAND**Division 1—Preliminary**

Clause 78 contains definitions of terms used in the Part.

Clause 79 allows the Minister to declare land not to be a reserve for the purposes of the Part.

Crown Lands 1988

Division 2—Dedications

Clause 80 authorises the dedication of Crown land for public purposes.

Clause 81 provides for the addition of land to dedicated areas.

Clause 82 requires proposals to dedicate land to be laid before Parliament.

Clause 83 revokes any existing reserves over a dedicated area.

Clause 84 provides for the revocation of dedications (if Parliament has not disallowed the proposal to revoke).

Clause 85 requires assessment of the land under Part 3 before dedication.

Clause 86 authorises revocation even though a grant or a certificate of title has issued.

Division 3—Reservations

Clause 87 authorises the reservation of Crown land from sale, lease or licence or for future public requirements or other public purpose.

Clause 88 provides for the addition of land to reserved land.

Clause 89 provides for the revocation of existing reserves following a new reservation.

Clause 90 enables the Minister to revoke reservations.

Clause 91 requires assessment of the land under Part 3 before reservation.

Division 4—Formation of reserve trusts

Clause 92 allows the Minister to establish a reserve trust, name it and appoint it as trustee of a reserve. The reserve trust is constituted as a statutory corporation managed either by a trust board or a corporation.

Clause 93 provides that a trust board shall consist of at least 3, but not more than 7, members appointed by the Minister.

Clause 94 provides for the application of provisions relating to the members and the procedure of trust boards as set out in Schedules 3–5.

Clause 95 relates to the appointment of a corporation to manage the affairs of a reserve trust.

Clause 96 provides for the vacation of office by a corporate manager of a reserve trust.

Clause 97 enables the Minister to specify the address for service of documents on a reserve trust.

Clause 98 relates to the functions of local government councils which manage reserve trusts.

Division 5—Trust property

Clause 99 states the effect of other Acts etc. in relation to a trust's functions under the Division.

Clause 100 contains provisions relating to a trust's estate in a reserve.

Clause 101 enables a trust, with the approval of the Minister, to purchase or improve land.

Crown Lands 1988

Clause 102 provides that a trust may not sell, lease or mortgage land without the consent of the Minister.

Clause 103 contains provisions relating to the selling etc. of reserve land with the Minister's consent.

Clause 104 states the effect of a conveyance of reserve land.

Clause 105 provides for the execution of conveyances etc.

Clause 106 provides for the application of the proceeds of a sale etc. of reserve land.

Clause 107 requires trusts to set aside funds for payment of debts.

Clause 108 allows trusts to grant temporary licences for grazing or prescribed purposes.

Clause 109 provides for the termination of leases or licences affecting reserve land on the revocation etc. of the reserve.

Clause 110 saves certain leases or licences on the amalgamation of reserves.

Clause 111 provides for the disposal of trust property on the dissolution of a trust.

Division 6—Plans of management

Clause 112 enables the Minister or a trust to prepare a plan of management for a reserve.

Clause 113 provides for the public display of plans of management and for public comment.

Clause 114 provides for adoption by the Minister of a plan of management, in which case it is required to be given effect by the trust.

Clause 115 sets out the procedures for alteration or cancellation of plans of management.

Clause 116 provides for reference of plans relating to submerged lands to the Minister administering the Fisheries and Oyster Farms Act 1935.

Division 7—Administrator of trust

Clause 117 allows the Minister to appoint an administrator of a trust with no members.

Clause 118 states that the trust's affairs shall be managed by the administrator.

Clause 119 makes provision regarding vacation of office by an administrator.

Clause 120 provides for the remuneration of administrators.

Division 8—Miscellaneous

Clause 121 protects members of trusts from personal liability.

Clause 122 requires a trust to keep records and provide reports for the Minister.

Clause 123 contains inspection and audit provisions.

Clause 124 provides for the removal of persons from reserve land.

Clause 125 contains transitional provisions to operate on the addition of a reserve to another reserve.

Crown Lands 1988

Clause 126 provides for the application to showgrounds etc. of certain provisions of the Part.

Clause 127 provides for the application to public parks etc. (other than reserves) of certain provisions of the Part.

Clause 128 authorises the making of by-laws with respect to the care, control, management etc. of reserves.

PART 6—FORFEITURE OF HOLDINGS

Clause 129 allows the Minister to forfeit holdings on failure to comply with conditions or to pay purchase money, rent etc.

Clause 130 sets out the procedure for notifying forfeiture.

Clause 131 provides that forfeiture operates to vest the land in the Crown but does not release the holder from the obligation to comply with certain conditions.

Clause 132 allows reversal of a forfeiture.

Clause 133 extends the Part to certain irrigation holdings.

PART 7—MISCELLANEOUS

Division 1—Acquisition etc. of land

Clause 134 enables the Minister to accept gifts of land.

Clause 135 authorises the Minister to acquire, by lease, exchange, purchase, resumption or appropriation, land for any public purpose.

Clause 136 allows the Minister to withdraw from any lease or licence land required for a public purpose.

Clause 137 provides for the surrender of land to the Crown.

Clause 138 enables the Minister to declare government owned land (other than Crown land) to be Crown land.

Division 2—Alteration of conditions etc.

Clause 139 allows the Minister, on application by or with the consent of a holder, to alter, modify, add to or revoke conditions attached to a holding or to land.

Clause 140 enables removal of conditions etc. attaching or applying to holdings or to land.

Clause 141 authorises the Registrar-General to make any consequential alterations to the Real Property Act Register.

Division 3—Determination of rent

Clause 142 provides for objections to the Minister and appeals to the local land board or the Land and Environment Court against determinations of rent of leases or licences.

Clause 143 sets out certain principles to be applied by the Minister, the local land board and the Court in determining rent.

Crown Lands 1988

Division 4—Payments

Clause 144 provides that on the transfer of a holding the incoming holder is liable to pay any arrears of rent, purchase money etc. owing.

Clause 145 authorises the issue of certificates as to amounts due.

Clause 146 provides for the prescription of a minimum rent.

Clause 147 provides for the recovery of debts.

Clause 148 authorises the charging of interest at a prescribed rate on arrears of rent etc.

Clause 149 provides that forfeiture etc. of a holding does not extinguish any debts.

Clause 150 authorises the postponement, waiving etc. of debts, the refund of amounts and the alteration of instalment or interest payments.

Clause 151 enables the Minister to grant rebates of rent in prescribed cases.

Clause 152 allows the alteration of due dates for payments.

Division 5—Protection of public land

Clause 153 contains definitions of terms used in the Division.

Clause 154 sets out how the Division operates in relation to other laws.

Clause 155 lists the matters which are offences on public land (that is, Crown land or reserve land).

Clause 156 prohibits the unauthorised use of structures on public land.

Clause 157 allows the recovery of compensation in addition to penalties in respect of offences on public land.

Clause 158 provides for the removal of unauthorised structures.

Clause 159 provides for the removal, by warrant issued by a Local Court, of persons unlawfully occupying or using public land.

Clause 160 contains provisions with respect to the use and control of vehicles on public land.

Clause 161 makes the owner of a vehicle liable for certain offences (for example, parking offences) committed on public land if the owner does not supply the name and address of the driver.

Clause 162 provides for the issue of penalty notices for certain offences.

Clause 163 authorises the removal of abandoned vehicles from public land.

Clause 164 authorises the removal of abandoned goods from public land.

Clause 165 provides for the disposition of any unclaimed money remaining after the removal and sale of abandoned vehicles or goods.

Clause 166 makes the Minister the occupant of vacant Crown land for the purposes of the impounding laws.

Clause 167 requires persons suspected of breaches against the proposed Act to give their names and addresses.

Crown Lands 1988

Clause 168 makes it an offence to obstruct authorised persons in the exercise of their functions.

Division 6—Legal and evidentiary provisions

Clause 169 states that a person who acquires land from the Crown by way of purchase or exchange has an estate in fee simple in the land.

Clause 170 continues provisions relating to the barring of the acquisition of title by possession against the Crown.

Clause 171 continues provisions relating to the exclusion of minerals from sales etc. of Crown land and providing for the imposition of other reservations and exceptions.

Clause 172 continues provisions relating to the boundaries of land which adjoins lakes, rivers or roads.

Clause 173 is an evidentiary provision in relation to plans of land.

Clause 174 contains provisions relating to the ownership of improvements on the forfeiture, surrender or other determination of a holding.

Clause 175 provides that proceedings for offences shall be dealt with by a Local Court.

Clause 176 makes special provisions in relation to offences committed by corporations.

Clause 177 provides that a certificate signed by the Minister certifying certain prescribed matters is evidence of those matters.

Clause 178 is an evidentiary provision relating to authorised persons.

Clause 179 authorises the Registrar-General, on advice from the Minister, to remove from the Real Property Act Register recordings that are no longer applicable.

Division 7—General provisions

Clause 180 provides for the delegation of functions under the proposed Act or the proposed Crown Lands (Continued Tenures) Act 1988.

Clause 181 provides for the service of notices, orders etc.

Clause 182 enables the Minister to require information to be provided in relation to the value of materials taken from land under a lease or licence in respect of which royalty etc. is payable.

Clause 183 provides a penalty for failing to furnish information etc.

Clause 184 authorises the making of regulations for the purposes of the proposed Act.

Clause 185 repeals the Crown Lands Consolidation Act 1913, the Closer Settlement Acts and certain other Acts.

Clause 186 gives effect to a Schedule of savings, transitional and other provisions.

SCHEDULES

Schedule 1 contains provisions relating to members of local land boards.

Schedule 2 sets out powers and procedures of local land boards.

Schedule 3 contains provisions relating to members of trust boards.

Crown Lands 1988

Schedule 4 relates to the disclosure of pecuniary interests by members of trust boards.

Schedule 5 deals with meetings of trust boards.

Schedule 6 contains modifications of the Public Works Act 1912 in its application to resumptions under the proposed Act.

Schedule 7 lists the Acts to be repealed by the proposed Act.

Schedule 8 contains the savings, transitional and other provisions.
