



New South Wales

Public Lands Protection Bill 2004

Explanatory note

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

Overview of Bill

The objects of this Bill are:

- (a) to constitute the Public Land Protection Trust (*the Trust*), and
- (b) to establish a Register of significant public land (*the Register*), and
- (c) to ensure that significant public land remains in public ownership, that public access is maintained to that land and that any use of that land is consistent with the significance of the land, and
- (d) to amend the *Education Act 1990* to ensure that the sites of closed government schools remain in public ownership for at least 20 years after the schools concerned are closed (unless the local community wishes otherwise) and that at least 30% of each site is dedicated as public open space if the site is to be sold or otherwise disposed of after that time.

Outline of provisions

Part 1 Preliminary

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.

Clause 3 defines certain words and expressions used in the proposed Act.

Clause 4 sets out the objects of the proposed Act, which are to ensure that significant public land remains in public ownership, and that public access is maintained to that land, and that any use of that land is consistent with the significance of the land.

Part 2 The Trust

Clause 5 constitutes a corporation under the corporate name of the “Public Land Protection Trust”.

Clause 6 provides for the appointment of trustees by the Minister and also provides for the procedures of the Trust.

Clause 7 sets out the functions of Trust, which are:

- (a) to receive and consider proposals in relation to the inclusion of public land in the Register of significant public land and to make recommendations to the Minister in relation to those proposals, and
- (b) to make recommendations to the Minister in relation to the leasing or licensing of any significant public land or building within such land, and
- (c) to carry out investigations, research and inquiries relating to the matters referred to in paragraphs (a) and (b), and
- (d) to exercise such other functions as are conferred or imposed on it by or under the proposed Act or any other Act or the regulations.

Part 3 Significant public land

Division 1 Identification

Clause 8 provides that any person, body or organisation may submit to the Trust a written proposal that an area of public land be included in the Register of significant public land. On receipt of the proposal, the Trust is to seek the comments of the Minister and is to consider the proposal and the Minister’s comments (if any). After considering the proposal, the Trust is to make a

recommendation to the Minister in relation to the proposal. If the Trust recommends that land be included in the Register, it is to include with its recommendation proposed key purposes for which the land may be used, being purposes that the Trust considers to be consistent with the significance of the land.

Clause 9 permits the Minister to amend the Register by order published in the Gazette. An order may insert, omit or amend a description of public land and the key purposes for which the land may be used. The Minister is required to consider any recommendation of the Trust before amending the Register and is to publish reasons if the Minister does not follow the recommendations of the Trust. An order of the Minister must be tabled in each House of Parliament and may be disallowed by either House.

Division 2 Restrictions on dealings

Clause 10 prohibits the sale, transfer, lease, licence or other alienation, and any mortgage or other encumbrance, of the whole, or any part, of any significant public land except as provided by the proposed Act. The Governor is able to transfer the whole or any part of any significant public land to a statutory body representing the Crown that is subject to the direction and control of the Minister.

Clause 11 restricts development within significant public land to development for any purpose that is in accordance with the key purposes for which that land may be used. However, development for residential purposes is prohibited.

Clause 12 allows a lease or licence to be granted of a building or land within significant public land for any purpose that is in accordance with the key purposes for which that land may be used, but only with the consent of the Minister and after the main terms of the lease or licence have been subject to public scrutiny and comment. Management agreements may be entered into (subject to parallel restrictions) with the local council or a prescribed person or body. The granting of an easement in relation to land within significant public land requires the consent of the Minister and public scrutiny and comment.

Part 4 Miscellaneous

Clause 13 provides that the proposed Act does not affect the application of the *Heritage Act 1977* to any significant public land.

Clause 14 allows the Governor to make regulations for the purposes of the proposed Act.

Clause 15 is a formal provision giving effect to the amendments to the *Education Act 1990* set out in Schedule 4.

Clause 16 prevents anything done by or under the proposed Act from affecting any property interest or liability in or over significant public land, that existed immediately before the land was included in the Register.

Clause 17 provides for a review of the proposed Act.

Schedule 1 Register of significant public land

Schedule 1 contains the Register of significant public land.

Schedule 2 Provisions relating to trustees

Schedule 2 contains provisions relating to the trustees including the procedures for appointing a Chairperson, acting Chairperson and acting trustees, the terms of office of trustees, remuneration, vacancies in office, disclosure of pecuniary interests and liability of trustees.

Schedule 3 Provisions relating to procedure of Trust

Schedule 3 contains provisions relating to the procedure of meetings of the Trust, including the procedures for the calling and conducting a meeting, the quorum, the presiding trustee, voting at a meeting, the transaction of business in writing or by telephone and the keeping of minutes.

Schedule 4 Amendment of Education Act 1990 No 8

Schedule 4 [1] provides that if a government school is closed, all the public land on which the school was located immediately before its closure (including any structures that are fixtures on the land) is taken to be significant public land and the key purposes for which that land may be used are taken to be educational purposes. The site of a closed government school that is taken to be significant public land under proposed Part 6A is a protected school site. A protected school site ceases to be taken to be significant public land only if:

- (a) after consultation with the local community, the Minister for Education grants an exemption in relation to the site, or
- (b) the Minister for Education establishes a government school on the site, or
- (c) a period of at least 20 years has passed since the closure of the government school that resulted in the site becoming a protected school site and at least 30% of the land within the protected school site is reserved or dedicated as public open space, or, in certain circumstances, for some other public purpose.

Nothing in the proposed Part prevents the Minister administering the *Public Lands Protection Act 2004* from inserting in the Register of significant public land, a description of land that is a protected school site, or part of such a site, or that is no longer a protected school site, or part of such a site.

Schedule 4 [2] amends Schedule 3 to the Act to enable the regulations to make provision for matters of a savings and transitional nature consequent on the amendment to the Act.

Schedule 5 Savings, transitional and other provisions

Schedule 5 contains provisions of a savings and transitional nature.



New South Wales

Public Lands Protection Bill 2004

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New South Wales

Public Lands Protection Bill 2004

No. , 2004

A Bill for

An Act to constitute the Public Land Protection Trust, to establish a Register of significant public land and to protect significant public land; to amend the *Education Act 1990* to provide for the protection of the sites of closed Government schools; and for other purposes.

Clause 1 Public Lands Protection Bill 2004

Part 1 Preliminary

The Legislature of New South Wales enacts: 1

Part 1 Preliminary 2

1 Name of Act 3

 This Act is the *Public Lands Protection Act 2004*. 4

2 Commencement 5

 This Act commences on the date of assent. 6

3 Definitions 7

 In this Act: 8

exercise a function includes perform a duty. 9

function includes a power, authority or duty. 10

key purposes, in relation to significant public land, means the key 11
 purposes set out in Column 2 of the Register next to the description 12
 of the land in Column 1. 13

public authority means any government department, local 14
 government authority, State owned corporation or statutory body 15
 representing the Crown. 16

public land means land owned by, or vested in, the Crown or a 17
 public authority, but does not include land reserved or dedicated 18
 under the *National Parks and Wildlife Act 1974* or a State forest 19
 within the meaning of the *Forestry Act 1916*. 20

significant public land means land described in Column 1 of the 21
 Register, and includes all structures that are fixtures on that land. 22

the Register means the Register of significant public land set out in 23
 Schedule 1. 24

the Trust means the Public Land Protection Trust constituted by 25
 Part 2. 26

4 Objects of Act

The objects of this Act are to ensure:

- (a) that significant public land remains in public ownership, and
- (b) that public access is maintained to that land, and
- (c) that any use of that land is consistent with the significance of the land.

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Part 2	The Trust	1
5	Constitution of the Trust	2
(1)	There is constituted by this Act a corporation under the corporate name of the “Public Land Protection Trust”.	3 4
(2)	The Trust has and may exercise the functions conferred or imposed on it by or under this or any other Act.	5 6
6	Appointment of trustees and procedures of the Trust	7
(1)	The Trust consists of 7 trustees appointed by the Minister.	8
(2)	The persons appointed as trustees are to include the following:	9
(a)	a person with knowledge or expertise in heritage matters,	10
(b)	a person with knowledge or expertise in planning matters,	11
(c)	a person with knowledge or expertise in conservation matters,	12
(d)	a person with knowledge or expertise in infrastructure planning,	13 14
(e)	a person appointed to represent the Minister,	15
(f)	a person appointed to represent the property industry,	16
(g)	a person appointed to represent the broad community.	17
(3)	Schedule 2 has effect with respect to the trustees.	18
(4)	Schedule 3 has effect with respect to the procedure of the Trust.	19
7	Functions of the Trust	20
	The functions of the Trust are:	21
(a)	to receive and consider proposals under this Act in relation to the inclusion of public land in the Register and to make recommendations to the Minister in relation to those proposals, and	22 23 24 25
(b)	to make recommendations to the Minister in relation to the leasing or licensing of any significant public land (including the leasing or licensing of any building within such land), and	26 27 28
(c)	to carry out investigations, research and inquiries relating to the matters referred to in paragraphs (a) and (b), and	29 30
(d)	to exercise such other functions as are conferred or imposed on it by or under this or any other Act or the regulations.	31 32

Part 3	Significant public land	1
Division 1	Identification	2
8	Assessment of land	3
(1)	Any person, body or organisation (including a public authority) may submit to the Trust a written proposal that an area of public land be included in the Register.	4 5 6
(2)	On receipt of any such proposal, the Trust is to forward a copy of the proposal to the Minister and invite the Minister to comment on the proposal.	7 8 9
(3)	After giving the Minister reasonable opportunity to comment, and not later than 6 months after receiving the proposal, the Trust must:	10 11
(a)	consider the proposal and the comments received from the Minister (if any), and	12 13
(b)	make a recommendation to the Minister in relation to the proposal.	14 15
(4)	If the Trust recommends that land be included in the Register, it is to include with its recommendation proposed key purposes for which the land may be used, being purposes that the Trust considers to be consistent with the significance of the land.	16 17 18 19
(5)	After making a recommendation to the Minister in relation to an area of land, the Trust is not required to comply with subsections (2) and (3) in respect to any further proposal relating to the same area of land (or part of that land) unless the Trust determines that the further proposal raises material matters that have not been considered by the Trust.	20 21 22 23 24 25
9	Including land in Register of significant public land	26
(1)	The Minister may, on the recommendation of the Trust or on the Minister's own initiative, by order published in the Gazette, amend the Register by:	27 28 29
(a)	inserting a description of public land and the key purposes for which the land may be used, or	30 31
(b)	omitting or amending a description of significant public land and the key purposes in relation to the land.	32 33

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- (2) The Minister is not to make an order under subsection (1) on the Minister's own initiative, unless the Minister has sought, in writing, the Trust's recommendation as to whether the order should be made and has given the Trust at least 28 days to provide its written recommendation. 1
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- (3) If the Minister makes any order that does not follow a recommendation of the Trust, the Minister must provide written reasons to the Trust for not following its recommendation. 6
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- (4) The Minister is to make public any written reasons that the Minister provides to the Trust under subsection (3) and also the recommendation to which those written reasons relate. 9
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- (5) Sections 40 and 41 of the *Interpretation Act 1987* apply to an order made under this section as if it were a statutory rule to which those sections apply. 12
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Division 2 Restrictions on dealings 15

10 Significant public land not to be sold or otherwise disposed of 16

- (1) The sale, transfer, lease, licence or other alienation, and any mortgage or other encumbrance, of the whole, or any part, of any significant public land is prohibited, except as provided by this Act. 17
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- (2) The Governor may, by proclamation, transfer the whole or any part of any significant public land to a statutory body representing the Crown that is subject to the direction and control of the Minister. 20
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11 Development on significant public land restricted 23

- (1) The provisions of environmental planning instruments that apply to any land within significant public land are the provisions of those instruments that so applied immediately before that land was included in the Register, subject to this section. 24
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- (2) The consent authority for development applications relating to land within significant public land is the council of the local government area within which the land is situated, despite any other Act or any environmental planning instrument. 28
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- (3) Development may be carried out on land within significant public land, with development consent, for any purpose that is in accordance with the key purposes for which that land may be used, subject to the other provisions of this section and to any relevant registered restrictive covenant. 32
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| (4) | Development for residential purposes (including retirement villages) is prohibited on land within significant public land, despite any other Act or any environmental planning instrument. | 1
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| (5) | <i>State Environmental Planning Policy (Seniors Living) 2004</i> does not apply to significant public land. | 4
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| (6) | In determining a development application, the consent authority must take into consideration the objects of this Act in addition to all other matters that are required to be taken into consideration. | 6
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| 12 Leases, licences, easements and management agreements | | 9 |
| (1) | A lease of, or a licence allowing the use of: | 10 |
| (a) | a building or part of a building within any significant public land, and of any adjoining land needed to enable the use of the building or part of the building, or | 11
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| (b) | any land within any significant public land, | 14 |
| | may be granted, with the consent of the Minister, for any purpose that is in accordance with the key purposes for which that land may be used. | 15
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| (2) | The term of any lease or licence referred to in subsection (1), including the term of any further lease or licence that may be granted under an option for renewal of the lease or licence, must not exceed 10 years. | 18
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| (3) | However, subsection (2) does not prevent leases or licences being granted for terms of, or successive terms totalling, more than 10 years if: | 22
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| (a) | a notice has been tabled in each House of Parliament stating: | 25 |
| (i) | the name of the proposed lessee or licensee, and | 26 |
| (ii) | the main purpose of the proposed lease or licence, and | 27 |
| (iii) | the term of the proposed lease or licence and any proposed optional terms, and | 28
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| (b) | resolutions have been passed by each House of Parliament confirming the proposal for the term or terms, or no resolution has been passed by either House disallowing the proposal for the term or terms within 15 sitting days after the notice was tabled in that House. | 30
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- (4) An easement in relation to land within any significant public land may be granted with the consent of the Minister if:
- (a) a notice has been tabled in each House of Parliament stating:
 - (i) the name of the person to whom the easement is to be granted, and
 - (ii) the main purpose of the proposed easement, and
 - (b) resolutions have been passed by each House confirming the proposal for an easement or no resolution has been passed by either House disallowing the proposal within 15 sitting days after the notice was tabled in that House.
- (5) The care, control and management of any significant public land, any building within any significant public land or any part of either of them may be contracted out with the consent of the Minister but only to:
- (a) the council of the local government area in which the significant public land is situated, or
 - (b) a person or body prescribed by the regulations,
- and only if that council, person or body has agreed to undertake that care, control and management in accordance with the objects of this Act and the key purposes for which that land may be used.
- (6) A lease or licence referred to in subsection (1) and a contract to which subsection (5) applies, must not allow a use that would otherwise be prohibited under this Division.
- (7) Before granting a consent under this section, the Minister must:
- (a) cause notice of the proposal to grant the lease, licence or easement or to enter into the contract, and a summary of the main terms of the lease, licence, easement or contract together with details of any related proposal to deal in land located in any significant public land of which the Minister is aware:
 - (i) to be sent to the Trust for its comments, and
 - (ii) to be published in a newspaper and on the Internet, and
 - (b) have regard to any written comments received in response to the notice within 30 days after the date the notice was sent to the Trust or the notice was last published in a newspaper (whichever is the later), and
 - (c) publish the reasons for the decision to grant consent in a newspaper and on the Internet.

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- (8) For the purposes of subsection (7), a requirement that a matter be published in a newspaper and on the Internet is a requirement that the matter is to be published:
- (a) in at least one newspaper circulating throughout the State, and
 - (b) in at least one newspaper circulating in the area in which the relevant significant public land is situated, and
 - (c) on the Internet site of the Department of Infrastructure, Planning and Natural Resources.
- (9) A regulation prescribing a person or body for the purposes of this section takes effect on the day following the last day on which it is capable of being disallowed under section 41 of the *Interpretation Act 1987* (as modified by subsection (10)) or on such later day as may be specified in the regulation.
- (10) Despite section 41 of the *Interpretation Act 1987*, a resolution by a House of Parliament to disallow any such regulation does not have effect unless notice of the resolution is given within 15 sitting days of the House after written notice of the making of the regulation is laid before that House under section 40 of that Act.
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Part 4	Miscellaneous	1
13	Application of Heritage Act 1977	2
	This Act does not affect the application of the <i>Heritage Act 1977</i> to any significant public land.	3 4
14	Regulations	5
	The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.	6 7 8 9
15	Amendment of Education Act 1990 No 8	10
	The <i>Education Act 1990</i> is amended as set out in Schedule 4.	11
16	Savings, transitional and other provisions	12
(1)	In this section:	13
	<i>liabilities</i> means any liabilities, debts and obligations (whether present or future and whether vested or contingent).	14 15
	<i>property interest</i> , in relation to land, means any legal or equitable interest (whether present or future and whether vested or contingent).	16 17 18
(2)	Nothing in this Act:	19
(a)	affects any property interest of any person (other than a public authority) in significant public land that existed immediately before the land was included in the Register, or	20 21 22
(b)	affects the liabilities of any person in connection with significant public land that existed immediately before the land was included in the Register, or	23 24 25
(c)	prevents the granting of a further lease under an option provided in a lease over significant public land that existed immediately before the land was included in the Register.	26 27 28
(3)	Schedule 5 has effect.	29
17	Review of Act	30
(1)	The Minister is to review this Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives.	31 32 33

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- (2) The review is to be undertaken as soon as possible after the period of 5 years from the date of assent to this Act. 1
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- (3) A report on the outcome of the review is to be tabled in each House of Parliament within 12 months after the end of the period of 5 years. 3
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Schedule 1 Register of significant public land
(Sections 3 and 9 (1))

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Column 1

Column 2

Description of significant public land

Key purposes of the land

Schedule 2 Provisions relating to trustees

(Section 6 (3))

1 Chairperson

- (1) One of the trustees is to be appointed as Chairperson of the Trust by the relevant instrument of appointment as a trustee or by another instrument executed by the Minister.
- (2) The Minister may remove a trustee from the office of Chairperson.
- (3) The Chairperson is taken to have vacated the office of Chairperson if the Chairperson:
- (a) is removed from that office by the Minister under subclause (2), or
 - (b) resigns that office by instrument in writing addressed to the Minister, or
 - (c) ceases to be a trustee.

2 Acting trustees and acting Chairperson

- (1) The Minister may, from time to time, appoint a person to act in the office of a trustee during the illness or absence of the trustee, and the person, while so acting, has and may exercise all the functions of the trustee and is taken to be a trustee.
- (2) The Minister may, from time to time, appoint a trustee to act in the office of Chairperson during the illness or absence of the Chairperson, and the trustee, while so acting, has and may exercise all the functions of the Chairperson and is taken to be the Chairperson.
- (3) The Minister may remove any person from any office to which the person was appointed under this clause.
- (4) A person while acting in the office of a trustee is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the person.
- (5) For the purposes of this clause, a vacancy in the office of trustee or the Chairperson is taken to be an absence from office of the trustee or Chairperson, as the case may be.

3	Term of office	1
	Subject to this Schedule, a trustee holds office for such period, not exceeding 4 years, as may be specified in the instrument of appointment of the trustee, but is eligible (if otherwise qualified) for re-appointment.	2 3 4 5
4	Remuneration	6
	A trustee is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the trustee.	7 8 9
5	Casual vacancies	10
(1)	The office of a trustee becomes vacant if the trustee:	11
	(a) dies, or	12
	(b) completes a term of office and is not re-appointed, or	13
	(c) resigns the office by instrument in writing addressed to the Minister, or	14 15
	(d) is removed from office by the Minister under this clause, or	16
	(e) is absent from 3 consecutive meetings of the Trust of which reasonable notice has been given to the trustee personally or by post, except on leave granted by the Minister or unless the trustee is excused by the Minister for having been absent from those meetings, or	17 18 19 20 21
	(f) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or	22 23 24 25
	(g) becomes a mentally incapacitated person, or	26
	(h) is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable.	27 28 29 30 31
(2)	The Minister may at any time remove a trustee from office.	32
(3)	Without limiting the generality of subclause (2), the Minister may remove from office a trustee who contravenes the provisions of clause 7.	33 34 35

6	Filling of vacancy in office of trustee	1
	If the office of any trustee becomes vacant, a person is, subject to this Act, to be appointed to fill the vacancy.	2 3
7	Disclosure of pecuniary interests	4
	(1) If:	5
	(a) a trustee has a direct or indirect pecuniary interest in a matter being considered or about to be considered at a meeting of the Trust, and	6 7 8
	(b) the interest appears to raise a conflict with the proper performance of the trustee's duties in relation to the consideration of the matter,	9 10 11
	the trustee must, as soon as possible after the relevant facts have come to the trustee's knowledge, disclose the nature of the interest at a meeting of the Trust.	12 13 14
	(2) A disclosure by a trustee at a meeting of the Trust that the member:	15
	(a) is a member, or is in the employment, of a specified company or other body, or	16 17
	(b) is a partner, or is in the employment, of a specified person, or	18
	(c) has some other specified interest relating to a specified company or other body or to a specified person,	19 20
	is a sufficient disclosure of the nature of the interest in any matter relating to that company or other body or to that person that may arise after the date of the disclosure and that is required to be disclosed under subclause (1).	21 22 23 24
	(3) Particulars of any disclosure made under this clause must be recorded by the Trust in a book kept for the purpose and that book must be open at all reasonable hours to inspection by any person on payment of the fee determined by the Trust.	25 26 27 28
	(4) After a trustee has disclosed the nature of an interest in any matter, the trustee must not, unless the Minister otherwise determines:	29 30
	(a) be present during any deliberation of the Trust with respect to the matter, or	31 32
	(b) take part in any decision of the Trust with respect to the matter.	33 34
	(5) A contravention of this clause does not invalidate any decision of the Trust.	35 36

- (6) A reference in this clause to a meeting of the Trust includes a reference to a meeting of a committee of the Trust.

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8 Effect of certain other Acts

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- (1) Chapter 2 of the *Public Sector Employment and Management Act 2002* does not apply to or in respect of the appointment of a trustee.

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- (2) If by or under any Act provision is made:

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- (a) requiring a person who is the holder of a specified office to devote the whole of his or her time to the duties of that office, or

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- (b) prohibiting the person from engaging in employment outside the duties of that office,

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the provision does not operate to disqualify the person from holding that office and also the office of a trustee or from accepting and retaining any remuneration payable to the person under this Act as a trustee.

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9 Personal liability

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A matter or thing done or omitted to be done by the Trust, a trustee or a person acting under the direction of the Trust does not, if the matter or thing was done or omitted to be done in good faith for the purpose of executing this or any other Act, subject a trustee or a person so acting personally to any action, liability, claim or demand.

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Schedule 3	Provisions relating to procedure of Trust	1
	(Section 6 (4))	2
1	General procedure	3
	The procedure for the calling of meetings of the Trust and for the conduct of business at those meetings is, subject to this Act and the regulations, to be as determined by the Trust.	4 5 6
2	Quorum	7
	The quorum for a meeting of the Trust is a majority of the trustees for the time being.	8 9
3	Presiding trustee	10
(1)	The Chairperson (or, in the absence of the Chairperson, another trustee elected to chair the meeting by the trustees present) is to preside at a meeting of the Trust.	11 12 13
(2)	The presiding member has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.	14 15
4	Voting	16
	A decision supported by a majority of the votes cast at a meeting of the Trust at which a quorum is present is the decision of the Trust.	17 18
5	Transaction of business outside meetings or by telephone	19
(1)	The Trust may, if it thinks fit, transact any of its business by the circulation of papers among all the trustees for the time being, and a resolution in writing approved in writing by a majority of those trustees is taken to be a decision of the Trust.	20 21 22 23
(2)	The Trust may, if it thinks fit, transact any of its business at a meeting at which trustees (or some trustees) participate by telephone, closed-circuit television or other means, but only if any trustee who speaks on a matter before the meeting can be heard by the other trustees.	24 25 26 27 28
(3)	For the purposes of:	29
(a)	the approval of a resolution under subclause (1), or	30
(b)	a meeting held in accordance with subclause (2),	31
	the Chairperson and each trustee have the same voting rights as they have at an ordinary meeting of the Trust.	32 33

Public Lands Protection Bill 2004

Schedule 3 Provisions relating to procedure of Trust

(4) A resolution approved under subclause (1) is, subject to the regulations, to be recorded in the minutes of the meetings of the Trust. 1
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(5) Papers may be circulated among the trustees for the purposes of subclause (1) by facsimile or other transmission of the information in the papers concerned. 4
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6 Minutes 7

The Trust must cause full and accurate minutes to be kept of the proceedings of each meeting of the Trust. 8
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7 First meeting 10

The Minister may call the first meeting of the Trust in such manner as the Minister thinks fit. 11
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Schedule 4 Amendment of Education Act 1990 No 8 1
(Section 15) 2

[1] Part 6A 3

Insert after Part 6: 4

Part 6A Surplus school sites 5

36A Definitions 6

In this Part: 7

harm has the same meaning as in the *Heritage Act 1977*. 8

protected school site means the site of a closed government school that is taken to be significant public land because of this Part. 9
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public land has the same meaning as in the *Public Lands Protection Act 2004*. 12
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Register of significant public land means the Register of significant public land set out in Schedule 1 to the *Public Lands Protection Act 2004*. 14
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significant public land has the same meaning as in the *Public Lands Protection Act 2004*. 17
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State Heritage Register has the same meaning as in the *Heritage Act 1977*. 19
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36B Closed government schools become protected school sites 21

If the Minister closes a government school in accordance with section 28, all the public land on which the school was located immediately before its closure (including any structures that are fixtures on the land) is taken to be significant public land and the key purposes for which that land may be used are taken to be educational purposes. 22
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36C Minister may grant exemption to protected school site 28

If, after consultation with the local community within which a protected school site is located, the Minister is satisfied that the local community supports the site (or part of the site) 29
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being sold or used for a purpose other than education purposes, the Minister may by order published in the Gazette, grant an exemption in relation to all or part of the site.

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36D How school sites cease to be protected school sites

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- (1) If an exemption is granted in accordance with section 36C, the protected school site (or that part of the site to which the exemption relates) is no longer taken to be significant public land. 5
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- (2) If the Minister establishes a government school in accordance with section 27 on a protected school site (or part of such a site), the protected school site (or that part of the site on which the school is established) is no longer taken to be significant public land. 9
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- (3) If a period of at least 20 years has passed since the closure of a government school that resulted in the site becoming a protected school site, and: 14
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 - (a) at least 30% of the land within the protected school site is reserved or dedicated as public open space, or 17
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 - (b) if reserving or dedicating 30% of the site as public open space would require an item listed on the State Heritage Register to be harmed, at least 30% of the land within the protected school site is reserved or dedicated for some other public purpose, 19
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23the protected school site is no longer taken to be significant public land. 24
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36E Land may be otherwise listed in Register of significant public land

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- (1) Nothing in this Part prevents the Minister administering the *Public Lands Protection Act 2004* from inserting in the Register of significant public land (the **Register**), a description of land: 28
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 - (a) that is a protected school site, or part of such a site, or 32
 - (b) that is no longer a protected school site, or part of such a site. 33
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- (2) To the extent that land is included in the Register and is also taken to be significant public land because of the operation of this Part: 35
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- (a) the land does not cease to be included in the Register just because the land is no longer taken to be significant public land under this Part, and
 - (b) the land does not cease to be taken to be significant public land under this Part just because the land is no longer included in the Register.

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[2] Schedule 3 Savings, transitional and other provisions

Insert at the end of clause 2 (1):

Public Lands Protection Act 2004 (but only to the extent that it amends this Act)

Schedule 5 Savings, transitional and other provisions 1
(Section 16 (3)) 2

1 Regulations 3

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts:
this Act 4
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- (2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later date. 7
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- (3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:
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 - (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or 12
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 - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication. 15
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