

# Callan Park (Special Provisions) Act 2002 No 139

[2002-139]



New South Wales

## Status Information

### Currency of version

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### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Authorisation

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# Callan Park (Special Provisions) Act 2002 No 139



New South Wales

An Act to preserve the public ownership of Callan Park; to protect its current features and restrict its future use; and for other purposes.

## 1 Name of Act

This Act is the *Callan Park (Special Provisions) Act 2002*.

## 2 Commencement

This Act commences on the date of assent.

## 3 Definitions

In this Act—

**Callan Park** means the land at Rozelle comprised in Lot 1, Deposited Plan 807747, including all structures that are fixtures on that land.

**community trustee board** has the same meaning as in the *Greater Sydney Parklands Trust Act 2022*.

**development** has the same meaning as in the *Environmental Planning and Assessment Act 1979*.

**environmental planning instrument** has the same meaning as in the *Environmental Planning and Assessment Act 1979*.

**Trust** means the Greater Sydney Parklands Trust constituted under the *Greater Sydney Parklands Trust Act 2022*.

## 4 Objects of Act

The objects of this Act are—

- (a) to ensure that the whole of Callan Park remains in public ownership and subject to public control, and

- (b) to ensure the preservation of the areas of open space at Callan Park that were in existence immediately before the commencement of this Act, and that extend to and include the foreshore of Iron Cove on the Parramatta River, and
- (c) to allow public access to that open space, including that foreshore, for public recreational purposes of both an active and a passive nature, and
- (d) to preserve the heritage significance of Callan Park, including its historic buildings, gardens and other landscape features, and
- (e) to impose appropriate controls on the future development of Callan Park.

## **5 Callan Park not to be sold or otherwise disposed of**

- (1) The sale, transfer, lease or other alienation, and any mortgage or other encumbrance, of Callan Park, or any part of Callan Park, is prohibited, except as provided by this Act.
- (2) The Governor may, by proclamation, vest Callan Park for an estate in fee simple in a statutory body representing the Crown that is subject to the direction and control of the Minister.

## **5A Acquisition of substratum or part of Callan Park for public purpose**

- (1) Despite section 5, the substratum of Callan Park, or a part of Callan Park, may be acquired for a public purpose.
- (2) In this section—

**public purpose** has the same meaning as in the [Land Acquisition \(Just Terms Compensation\) Act 1991](#).

## **6 Leases, licences and management agreements**

- (1) A lease of, or a licence allowing the use of—
  - (a) a building or part of a building within Callan Park, and of any adjoining land needed to enable the use of the building or part of the building, or
  - (b) any land within Callan Park,may be granted with the consent of the Minister.
- (2) The term of any such lease or licence, 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—
  - (a) for relevant premises—50 years, and
  - (b) otherwise—10 years.

- (3) However, subsection (2)(b) does not prevent leases or licences being granted for terms of, or successive terms totalling, more than 10 years if—
  - (a) a notice stating the name of the proposed lessee or licensee, the main purpose of the proposed lease or licence and details of the proposed term and any proposed optional terms, has been tabled in each house of Parliament, and
  - (b) resolutions have been passed by each House 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.
- (4) The care, control and management of Callan Park, of any building at Callan Park or of 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 Callan Park is situated, or
  - (b) a trust prescribed by the regulations, if the trust has agreed to undertake that care, control and management in accordance with the objects of this Act.
- (5) A lease or licence referred to in subsection (1), and a contract to which subsection (4) applies, must not allow a use that is not authorised by section 7 (3).
- (5A) To avoid doubt, a lease, licence or contract under this section may be granted or entered into for the purposes of an arts or cultural event, including on a commercial basis.

**Example—**

a lease granted for a music festival to be held within Callan Park

- (6) Before granting a consent under this section, the Minister must—
  - (a) cause notice of the proposal to grant the lease or licence or to enter the contract to be published in a manner that the Minister is satisfied is likely to bring the proposal to the attention of members of the public in the locality, and
  - (b) have regard to any written comments received in response to the notice within 30 days after the date of the last publication, and
  - (c) publish the reasons for the decision to grant consent in a manner that the Minister is satisfied is likely to bring the reasons to the attention of members of the public in the locality.
- (6A) The notice of the proposal must include a summary of the main terms of the lease, licence or contract, together with details of any related proposal to deal in land located in Callan Park of which the Minister is aware.
- (7) A regulation prescribing a trust 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 (8)) or on such later day as may be specified in the regulation.

(8) 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.

(9) In this section—

**relevant premises** means the following—

- (a) Kirkbride,
- (b) Broughton Hall,
- (c) the Convalescent Cottages.

#### **6A Open tender process to be used for leases and certain licences**

The Trust must not grant a lease, or a licence with a term of 10 years or more, over Callan Park unless the granting of the lease or licence has been the subject of an open tender process.

#### **7 Development at Callan Park restricted**

- (1) (Repealed)
- (2) The consent authority for development applications relating to land within Callan Park is the council of the local government area within which the land is situated, despite any other Act or any environmental planning instrument.
- (3) Development may be carried out at Callan Park, with development consent, for the following purposes on a not-for-profit basis—
  - (a) arts and culture facilities,
  - (b) community facilities,
  - (c) educational facilities,
  - (d) food and drink premises,
  - (e) health facilities.

#### **Note—**

Development may be carried out for a purpose referred to in this subsection only on a not-for-profit basis and not on a commercial basis.

- (3A) However, development for the following purposes is prohibited at Callan Park—
- (a) function centres,
  - (b) hotels,
  - (c) retirement villages.
- (4) *State Environmental Planning Policy No 5—Housing for Older People or People with a Disability* does not apply to Callan Park.
- (5) Buildings must not be erected at Callan Park outside the footprints or building envelopes of the buildings that existed immediately before the commencement of this Act.
- (5A) Subsection (5) does not prevent the erection of the following outside the footprints or building envelopes of the existing buildings—
- (a) accessibility or safety structures,
  - (b) amenities blocks,
  - (c) temporary structures.
- (6) Consent must not be granted for any development at Callan Park if the development would result in—
- (a) less open space at Callan Park than existed immediately before the commencement of this Act, or
  - (b) an increase in the total floor area of all buildings that existed at Callan Park immediately before the commencement of this Act.
- (7) Development at Callan Park must not adversely affect the Broughton Hall Garden, Charles Moore Garden or Kirkbride Garden.
- (8) 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.
- (9) In this section—

**community facility** means a facility (not being an educational facility or a health service) providing services to the community on a not-for-profit basis.

**educational facility** means a university or any other facility providing educational services, but does not include a secondary school or a primary school.

## 8 Community trustee boards

- (1) This section applies if there is a community trustee board for Callan Park.
- (2) The Trust must, in exercising its functions in relation to Callan Park—
  - (a) consult with the community trustee board, and
  - (b) have regard to the advice and recommendation of the board in relation to Callan Park.
- (3) Without limiting subsection (2), the Trust must consult with and have regard to the advice of a community trustee board established for Callan Park about the following—
  - (a) the development and review of the plan of management for Callan Park,
  - (b) proposed new or modified services and facilities for Callan Park,
  - (c) matters of local relevance to Callan Park, including the protection and use of Callan Park and the business and other activities carried out, or to be carried out, on Callan Park.
- (4) In this section—

**Callan Park** includes a part of Callan Park.

### 8A Compliance with approved consultation and engagement framework

- (1) The Trust must, in exercising its functions in relation to consultation and engagement with any of the following, comply with the approved consultation and engagement framework—
  - (a) the community generally,
  - (b) visitors and other users of Callan Park,
  - (c) a community trustee board established for Callan Park,
  - (d) other stakeholders.
- (2) In this section—

**approved consultation and engagement framework** means the consultation and engagement framework approved by the Minister under the [Greater Sydney Parklands Trust Act 2022](#).

## 9 Application of [Heritage Act 1977](#)

This Act does not affect the application of the [Heritage Act 1977](#) to Callan Park.

## **10 Regulations**

- (1) 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.
- (2) Sections 5 and 6 of the [Subordinate Legislation Act 1989](#) apply to or in respect of any regulation made under this Act in the same way as they apply to or in respect of a principal statutory rule (whether or not the regulation is a principal statutory rule within the meaning of that Act).

## **11 Savings**

This Act does not affect any easement, lease or licence that was in force immediately before the commencement of this Act or affect the granting of a further lease under an option provided for in such a lease.