

Callan Park (Special Provisions) Act 2002

Long Title

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.

"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*.

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.

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 10 years.
- (3) However, subsection (2) 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).
- (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 into the contract, and 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, to be published in at least one Sydney metropolitan and two local newspapers circulating in the neighbourhood, 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, in at least one Sydney metropolitan and two local newspapers circulating in the locality, the reasons for the decision to grant consent.
- (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.

7 Development at Callan Park restricted

- (1) The provisions of environmental planning instruments that apply to Callan Park are the provisions of those instruments that so applied immediately before the commencement of this Act, subject to this section.
- (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 purpose of health facilities and educational or community facilities, but development for the purpose of retirement villages is prohibited at Callan Park.
- (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. However, this subsection does not prevent the erection of 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 on a not-for-profit basis, but does not include a secondary school or a primary school.

8 Community consultation committee

The regulations may establish and provide for the functions and procedures of a community consultation committee for Callan Park.

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.

Historical notes

The following abbreviations are used in the Historical notes:

Am	amended	No	number	Schs	Schedules
Cl	clause	p	page	Sec	section
ClI	clauses	pp	pages	Secs	sections
Div	Division	Reg	Regulation	Subdiv	Subdivision
Divs	Divisions	Regs	Regulations	Subdivs	Subdivisions
GG	Government Gazette	Rep	repealed	Subst	substituted
Ins	inserted	Sch	Schedule		

Table of Acts *Callan Park (Special Provisions) Act 2002 No 139*. Second reading speech made: Legislative Assembly, 24.10.2002; Legislative Council, 13.11.2002. Assented to 24.12.2002. Date of commencement, assent, sec 2.