

**Approvals and Related Reforms (No. 3)
(Crown Land) Bill 2009**

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Western Australia

LEGISLATIVE ASSEMBLY

(As amended in Committee)

**Approvals and Related Reforms (No. 3)
(Crown Land) Bill 2009**

A Bill for

An Act to amend various Acts in relation to Crown land and for related purposes.

The Parliament of Western Australia enacts as follows:

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Part 1 — Preliminary matters

1. Short title

This is the *Approvals and Related Reforms (No. 3) (Crown Land) Act 2009*.

2. Commencement

This Act comes into operation as follows —

- (a) Part 1 — on the day on which this Act receives the Royal Assent;
- (b) the rest of the Act — on a day fixed by proclamation, and different days may be fixed for different provisions.

1 **Part 3 — *Aboriginal Heritage Act 1972* amended**

2 **6. Act amended**

3 This Part amends the *Aboriginal Heritage Act 1972*.

4 **7. Section 66 inserted**

5 At the beginning of Part VIII insert:

6

7 **66. Authority to perform certain functions in relation to**
8 **Crown land for purposes of this Act**

9 (1) If, under section 18(2) or 24, the owner of Crown land
10 or freehold land in the name of the State may give, or is
11 required to give, notice that notice may be given by —

12 (a) the Minister as defined in the *Land*
13 *Administration Act 1997* section 3(1) (the
14 ***Minister for Lands***); or

15 (b) a person who is authorised in writing by the
16 Minister for Lands to do so.

17 (2) Nothing in this section limits the ability of the Minister
18 for Lands to otherwise perform a function through an
19 officer or agent.

20 (3) Nothing in this section affects —

21 (a) a right that any other person has under
22 section 18(2) or (5) in relation to land
23 mentioned in subsection (1) if the person is an
24 owner of that land because of section 18(1) or
25 (1a); or

26 (b) how that right may be exercised.

27

1 **8. Section 67 amended**

2 (1) In section 67 delete “A person” and insert:

3

4 (1) A person

5

6 (2) At the end of section 67 insert:

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8 (2) An action in tort does not lie against a person acting
9 under an authority mentioned in section 66(1) for
10 anything that the person has done, in good faith, in the
11 performance or purported performance of a function to
12 which the authority applies.

13 (3) The protection given by this section applies even
14 though the thing done as described in subsection (1) or
15 (2) may have been capable of being done whether or
16 not this Act had been enacted.

17 (4) Despite subsections (1) and (2), the State is not
18 relieved of any liability that it might have for another
19 person having done anything as described in those
20 subsections.

21 (5) In this section, a reference to the doing of anything
22 includes a reference to an omission to do anything.

23

1 **Part 4 — *Environmental Protection Act 1986* amended**

2 **9. Act amended**

3 This Part amends the *Environmental Protection Act 1986*.

4 **10. Section 121A inserted**

5 After section 120 insert:

6

7 **121A. Authority to perform certain functions in relation to**
8 **Crown land for purposes of this Act**

9 (1) If, under a provision of this Act, the owner or occupier
10 of Crown land or freehold land in the name of the State
11 may give, or is required to give, notice or may make an
12 application or representation, give comments or
13 authority, show cause, provide information or do any
14 other thing, that thing may be done by —

- 15 (a) the Minister as defined in the *Land*
16 *Administration Act 1997* section 3(1) (the
17 ***Minister for Lands***); or
18 (b) a public service officer of the Department, as
19 defined in the *Land Administration Act 1997*
20 section 3(1), who is authorised in writing by the
21 Minister for Lands to do so.

22 (2) Nothing in this section limits the ability of the Minister
23 for Lands to otherwise perform a function through an
24 officer or agent.

25 (3) Nothing in this section affects —

- 26 (a) a right or obligation that any other person has
27 under Part V Division 2 in relation to land
28 mentioned in subsection (1) if the person is an
29 ***owner*** or ***occupier*** of that land because of the
30 meaning of those terms in that Division; or

- 1 (b) a right or obligation that any other person has
2 under any other provision of this Act in relation
3 to land mentioned in subsection (1) if the
4 person is an *occupier* of that land because of
5 the meaning of occupier in section 3(1); or
6 (c) how that right may be exercised or that
7 obligation may be satisfied.
8

9 **11. Section 121 amended**

10 In section 121(1) delete “against a person for anything that the
11 person has done, in good faith, in the performance or purported
12 performance of a function under this Act.” and insert:
13

14 against —

- 15 (a) a person for anything that the person has done,
16 in good faith, in the performance or purported
17 performance of a function under this Act; or
18 (b) a person acting under an authority mentioned in
19 section 121A(1) for anything that the person
20 has done, in good faith, in the performance or
21 purported performance of a function to which
22 the authority applies.
23

1 **Part 5 — *Land Administration Act 1997* amended**

2 **12. Act amended**

3 This Part amends the *Land Administration Act 1997*.

4 **13. Section 91 amended**

5 In section 91(5):

- 6 (a) delete “there is in effect an agreement between the
7 Minister and”;
- 8 (b) delete “Governor enabling that area to be” and insert:
9

10 Governor, or a public service officer of the department
11 that is principally assisting in the administration of the
12 relevant Act, who is authorised in writing by that
13 Minister to do so, approves of that area being
14

15 **14. Section 259 amended**

16 In section 259(2) delete “who is the Minister, a delegate of the
17 Minister, an authorised land officer or a public service officer of
18 the Department”.

19 **15. Section 275A inserted**

20 After section 274 insert:
21

22 **275A. Disclosure of information about Crown land
23 interest holders**

- 24 (1) In this section —
25 *contact details* includes postal address, telephone
26 number, facsimile number and email address;
27 *Crown land interest holder* means the holder of —
28 (a) a pastoral lease or other lease; or

- 1 (b) a licence; or
2 (c) an interest in relation to Crown land;
3 **public authority** means —
4 (a) a department of the Public Service; or
5 (b) a State instrumentality; or
6 (c) a local government; or
7 (d) a body that provides to members of the public
8 water, drainage, gas, electricity or ambulance or
9 other emergency services; or
10 (e) a prescribed agency of the Commonwealth.
- 11 (2) The chief executive officer of the Department may
12 disclose the name and contact details of a Crown land
13 interest holder to —
14 (a) an officer or employee of a public authority for
15 use in the performance of the public authority's
16 functions; or
17 (b) the Director General of Mines, as defined in the
18 *Mining Act 1978* section 8(1), for providing the
19 information to applicants for, or holders of,
20 mining tenements, as defined in that section, or
21 to any other person who is required, under that
22 Act, to give notice to a Crown land interest
23 holder; or
24 (c) a prescribed person, in the circumstances and
25 on such conditions as may be prescribed.
- 26 (3) For the purposes of this section, the Pastoral Lands
27 Board may disclose the name and contact details of a
28 pastoral lessee to the chief executive officer of the
29 Department from the most recent return submitted by
30 the pastoral lessee under section 113.
- 31 (4) Information may be disclosed under subsection (2) or
32 (3), or provided under subsection (2)(b), despite any
33 written law relating to confidentiality or secrecy.

s. 15

- 1 (5) If information is disclosed, in good faith, under
2 subsection (2) or (3), or provided under
3 subsection (2)(b) (the *disclosure*) —
4 (a) no civil or criminal liability, or liability to be
5 punished for a contempt of court, is incurred in
6 respect of the disclosure; and
7 (b) the disclosure is not to be regarded as a breach
8 of any duty of confidentiality or secrecy
9 imposed by law; and
10 (c) the disclosure is not to be regarded as a breach
11 of professional ethics or standards or as
12 unprofessional conduct.
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Part 6 — Mining Act 1978 amended

16. Act amended

This Part amends the *Mining Act 1978*.

17. Section 8 amended

In section 8(1) insert in alphabetical order:

LAA Minister means the Minister to whom the administration of the *Land Administration Act 1997* is for the time being committed by the Governor;

18. Section 25 amended

- (1) In section 25(2)(b) delete “Minister to whom the administration of the *Land Administration Act 1997* is for the time being committed by the Governor” and insert:

LAA Minister

- (2) In section 25(3)(b) delete “Minister to whom the administration of the *Land Administration Act 1997* is for the time being committed by the Governor” and insert:

LAA Minister

19. Section 160AA inserted

After section 160 insert:

160AA. Authority to perform certain functions of LAA Minister under this Act

- (1) A function that the LAA Minister has under a provision of this Act listed in the Table may be performed by a

s. 20

1 public service officer of the Department, as defined in
2 the *Land Administration Act 1997* section 3(1), who is
3 authorised in writing by the LAA Minister to do so.

4 (2) Nothing in this section limits the ability of the
5 LAA Minister to otherwise perform a function through
6 an officer or agent.

7 **Table**

s. 24(3)(b), (5)(b), as the <i>responsible Minister</i> under s. 24(8)	s. 25(2)(b), (3)(b)
s. 26(2)(a)	s. 55(1), (3), (4)
s. 69C(1), (3), (4)	s. 94J

8

9 **20. Section 160A amended**

10 In section 160A delete “Mines” and insert:

11

12 Mines, or the LAA Minister

13

1 **Part 7 — *Petroleum Pipelines Act 1969* amended**

2 **21. Act amended**

3 This Part amends the *Petroleum Pipelines Act 1969*.

4 **22. Section 4 amended**

5 In section 4(1) in the definition of *the Minister for Lands* delete
6 “of the Crown to whom the Governor has for the time being
7 committed the administration of the *Land Administration*
8 *Act 1997*,” and insert:

9
10 as defined in the *Land Administration Act 1997*
11 section 3(1);
12

13 **23. Section 16 amended**

14 In section 16:

15 (a) delete “unalienated Crown land, the Governor, on the
16 recommendation of the Minister for Lands,” and insert:

17
18 Crown land, the Minister for Lands, or a public service
19 officer of the Department, as defined in the *Land*
20 *Administration Act 1997* section 3(1), who is
21 authorised in writing by the Minister for Lands to do so
22 in that Minister’s name,
23

24 (b) delete “Governor thinks” and insert:

25
26 grantor thinks
27

1 **Part 8 — *Planning and Development Act 2005* amended**

2 **24. Act amended**

3 This Part amends the *Planning and Development Act 2005*.

4 **25. Section 267A inserted**

5 After section 266 insert:

6

7 **267A. Authority to perform certain functions in relation to**
8 **Crown land for purposes of this Act**

9 (1) If the approval or signature of the owner of Crown land
10 or freehold land in the name of the State is required for
11 the purposes of this Act, the approval or signature may
12 be given by —

13 (a) the Minister as defined in the *Land*
14 *Administration Act 1997* section 3(1) (the
15 ***Minister for Lands***); or

16 (b) a person who is authorised in writing by the
17 Minister for Lands to do so.

18 (2) Nothing in this section limits the ability of the Minister
19 for Lands to otherwise perform a function through an
20 officer or agent.

21 (3) Nothing in this section affects —

22 (a) a right or obligation that any other person, as an
23 owner of land mentioned in subsection (1), has
24 under this Act in relation to that land; or

25 (b) how that right may be exercised or that
26 obligation may be satisfied.
27

1 **26. Section 267 amended**

2 (1) Delete section 267(1) and (2) and insert:

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4 (1) An action in tort does not lie against —

5 (a) a person for anything that the person has done,
6 in good faith, in the performance or purported
7 performance of a function under this Act; or

8 (b) a person acting under an authority mentioned in
9 section 152(5)(c) or 267A(1) for anything that
10 the person has done, in good faith, in the
11 performance or purported performance of a
12 function to which the authority applies.

13

14 (2) In section 267(3) delete “subsection (2)” and insert:

15

16 subsection (1)

17

18 (3) In section 267(4):

19 (a) delete “subsection (2)” and insert:

20

21 subsection (1)

22

23 (b) delete “Commission nor the State” and insert:

24

25 Commission, the State nor a local government

26

s. 27

1 **Part 9 — *Transfer of Land Act 1893* amended**

2 **27. Act amended**

3 This Part amends the *Transfer of Land Act 1893*.

4 **28. Section 4 amended**

5 In section 4(1) in the definition of ***Minister for Lands*** delete “to
6 whom the administration of the *Land Administration Act 1997* is
7 committed;” and insert:

8
9 as defined in the *Land Administration Act 1997* section 3(1);
10

11 **29. Section 17 inserted**

12 At the end of Part 1 insert:
13

14 **17. Authority to perform certain functions of Minister**
15 **for Lands under this Act**

16 (1) A function that the Minister for Lands has under a
17 provision listed in the Table may be performed by a
18 public service officer of the Department, as defined in
19 the *Land Administration Act 1997* section 3(1), who is
20 authorised in writing by the Minister for Lands to do
21 so.

22 (2) Nothing in this section limits the ability of the Minister
23 for Lands to otherwise perform a function through an
24 officer or agent.

25 **Table**

s. 70A(1), (2)(b), (3)	s. 81D(1)(a)
s. 81E	s. 81F(1), (2), (3), (4)

s. 81L	s. 81V(1)
s. 81ZA(3)	s. 104(2)
s. 129BA(2)	s. 129BB(1), (2), (3)
s. 136J(1), (2), (3)	s. 145(2)
s. 153A	s. 166A(1), (3)
s. 166B(1), (3)	

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30. Section 81D amended

In section 81D(1)(a) delete “Lands, or an officer authorised by that Minister to do so,” and insert:

Lands

31. Section 153A amended

In section 153A after “Minister” insert:

for Lands

32. Section 198 amended

In section 198 after “them” insert:

or of the Minister for Lands

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12. Protection from liability for wrongdoing

- (1) An action in tort does not lie against a person for anything that the person has done, in good faith, in the performance or purported performance of a function under this Act.
- (2) The protection given by this section applies even though the thing done as described in subsection (1) may have been capable of being done whether or not this Act had been enacted.
- (3) Despite subsection (1), neither the Minister nor the State is relieved of any liability that it might have for another person having done anything as described in that subsection.
- (4) In this section, a reference to the doing of anything includes a reference to an omission to do anything.

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